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Current Topics.

Life Disqualification for Motor Licence.

CASES ARE occurring where justices convicting of offences under the Motor Car Acts are disqualifying the offender for holding a motor car licence for the remainder of his life. One such case was reported in the daily Press on the 8th inst. Two questions arise upon such a sentence : Is it lawful ? and Is it just ? The expression used in s. 4 of the Motor Car Act, 1903, is that the disqualification shall be "for such time as the court thinks fit." This expression seems to point to a time certain, to be fixed by the court, and not to a time undetermined save by the power of the defendant's body to resist the assaults of time. If the time may be uncertain the disqualification might be, say, "until the defendant has passed an examination to show his proficiency in driving," in itself a reasonable requirement. It would not be difficult to suggest other fancy disqualifications, all having relevance to the matter in hand. On the whole, it would seem that disqualification for life is an unwarrantable stretch of power. It is true the disqualification is now, by the operation of s. 40 of the Criminal Justice Act, 1925, open to subsequent revision, but in arguing upon the meaning of s. 4 of the Motor Car Act, 1903, the later enactment may be left out of consideration, for the earlier must have meant the same thing both before and after that power of revision came into existence. As to the justice of disqualification for life, it may be pointed out that, in the particular case reported, the defendant was a lorry driver, and, as the sentence stands, he is permanently deprived of his means of livelihood ; hardly, one supposes, a case contemplated by the statute. It is true the power of revision exists, but if a bench can impose the disqualification, a refusal to remove it is equally lawful. Such a very drastic sentence ought to have the very clearest warrant in law.

Trees adjoining a Highway.

CURIOUSLY ENOUGH, almost at the same time as the Divisional Court, in the recent case of *Noble* v. *Harrison*, 70 SOL. J. 691 ; 1926, 2 K.B. 332, was considering the question whether a person who, while lawfully passing along a highway, is injured by the fall of a tree growing on adjacent land has any redress, the First Division of the Court of Session had to deal with the same point in a case which has just been reported : *Mathieson* v. *Dumbartonshire County Council*, 1926, S.C. 795. There are, it is true, slight points of difference between the two cases, for, while in *Noble* v. *Harrison*, the injured person sought to make the owner of the tree liable, in the Scottish case it was the road authority whom it was attempted to fix with responsibility. Again, in *Noble* v. *Harrison*, the branch of the tree which fell overhung the highway, whereas this fact was absent from the Scottish case. *In Noble* v. *Harrison*, it will be recalled, the Divisional Court, reversing the decision of the County Court judge, held that the principle of *Rylands* v. *Fletcher*, L.R. 3 H.L. 330, had no application to a tree, and, further, that the mere fact that a branch overhangs a highway does not constitute a nuisance unless it obstructs the free passage of the highway, and as it did not, and as the landowner had no knowledge of any defect in the particular tree, he was absolved from liability. That decision was not brought to the attention of the Court of Session, probably because it was not reported in time, but although it might have been useful, it would not have been conclusive, inasmuch as in the Scottish case it was upon the road authority it was sought to impose liability. It was said for the Scottish plaintiffs that there was a common law duty on the road authority to maintain the highway in a safe condition for members of the public lawfully passing and re-passing, and, in particular, it was their duty to inspect trees growing on land adjoining the highway, to ascertain if they were dangerous and to take steps to guard against danger, if it existed, by themselves fencing off the road at that point, or to direct the attention of the owner of the tree to the existence of the danger, and require him to take steps to abate the nuisance. The Court of Session declined to recognise any such wide duty upon the road authority such as was contended for on behalf of the plaintiffs. "No doubt," said the Lord President, "road authorities are responsible to the public for maintaining a road in a condition of safety for public use, but they have no responsibility for the condition of property adjoining the road—that is the affair of the owners of such property. If the road authority become aware of the existence on adjoining property of a danger to the public using the road, or if the source of danger is such that it must be obvious and manifest to the authority's roadmen and other servants in the course of the ordinary discharge of their duties, then the road authority may incur liability if they fail to take whatever steps they legally can to have the danger removed and meanwhile to warn the public. But their responsibility with regard to structures or trees on adjoining property goes no further than that." The result arrived at in the two cases was the same: that, apart from negligence, or knowledge of the existence of a nuisance, neither the owner of the tree adjoining a highway nor the road authority is liable for injury caused by the tree to a person using the highway. This conclusion may afford cold comfort to those who have the misfortune to suffer injury by the fall of a tree, but as Baron BRAMWELL said half a century ago, in *Holmes* v. *Mather*, L.R. 10 Ex. 261, "for the convenience of mankind in carrying on the affairs of life, people as they go along roads must expect, or put up with, such mischief as reasonable care on the part of others cannot avoid."

Satisfaction of Rates by Imprisonment.

AT WILLESDEN Police Court recently a man stated that he was out of work, "and his wife thought that as he was doing nothing, he might as well go to prison to wipe off arrears of rates." He had, he said, just finished a term of seven days, and it was alleged that his wife was deliberately getting into fresh arrears so that he would soon be sent back to prison. The magistrate remarked that, according to the law, imprisonment wiped out debt, and that was all he could say. Taking that as the last word of the law, it hardly seems a satisfactory one from the point of view of other ratepayers, who ultimately have to make up such deficiencies. In respect of an ordinary civil debt, it is expressly provided in the Debtors Act, 1869, s. 5, that proceedings culminating in the imprisonment of a person who is adjudged able to pay but who refuses or neglects to pay, shall neither operate as a satisfaction or extinguishment of a debt, nor deprive any person of the right of execution in the same manner as if such imprisonment had not taken place. Rates, however, are recoverable under different statutes. These do not provide in so many words that the defaulting ratepayer must be given a receipt for his rate on coming out of prison, but appear to have such an effect by exhaustion of remedy. On the assumption that imprisonment for non-payment of rates is not a deterrent to certain habitual defaulters, a possible remedy might be to make the legal owner unconditionally liable if the occupier defaulted, and to allow the landlord to eject the occupier as on a non-payment of rent if he did not repay. If an owner-occupier defaulted a charge on the land for the unpaid rate might perhaps be made registrable under the Land Charges Act, 1925, s. 15. A term of imprisonment is not really an appropriate remedy for a defaulting ratepayer, who more suitably might be deprived of the enjoyment of his property until he paid up. In cases where the owner as such is rated, s. 15 of the Rating and Valuation Act, 1925, provides that rent may be made payable to a rating authority until arrears are satisfied, but this does not apply until the "appointed day," which under s. 68 is 1st April.

What is a "Judicial Proceeding"?

IT WOULD seem that the Judicial Proceedings (Regulation of Reports) Act, 1926, is likely to give rise to some difficulty, by reason of the fact that the Act nowhere attempts to give a definition of what is a "judicial proceeding." It will be observed that while s. 1 (1) (*b*) refers to "judicial proceedings for dissolution of marriage, for nullity of marriage, and for judicial separation, or for restitution of conjugal rights," para. (*a*), of s. 1 (1), refers to "any judicial proceedings." The latter paragraph accordingly raises the question as to what is and what is not a judicial proceeding. There can be no doubt in some cases that the proceedings in question are judicial proceedings, but there may be other cases in which it may be difficult to determine whether or not the proceeding is to be regarded as a "judicial proceeding," at any rate for the purpose of the above Act. Some light on the meaning of the expression is thrown by s-s. (4) of s. 1. That section provides that nothing therein "shall apply to the printing of any pleading, transcript of evidence or other document for use in connexion with *any judicial proceedings*, or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the court, or to the printing or publishing of any matter in any separate volume or part of any *bona fide* series of law reports which does not form part of any other publication and consists solely of reports of *proceedings in courts of law*, or in any publication of a technical character *bona fide* intended for circulation among members of the legal or medical professions." In the above sub-section, it would appear that "judicial proceedings" are contrasted with "proceedings in courts of law," from which it may be inferred that the former expression is intended to include other proceedings than "proceedings in courts of law." In no other part of the Act, however, does there appear to be anything which throws light on the meaning of the expression, and a great deal of difficulty might have been obviated if the Act contained some such definition as is to be found in s. 1 (2) of the Perjury Act, 1911. For the purposes of the Perjury Act a "judicial proceeding" is defined as *including* a "proceeding before any *court, tribunal*, or *person*, having by law power to hear, receive and examine evidence on oath," but it cannot be that the above definition is to be applied also for the purposes of the Judicial Proceedings (Regulation of Reports) Act, 1926. Possibly, however, some guidance is to be obtained from the cases decided, previous to the passing of the Perjury Act, as to what was a judicial proceeding for the purpose of the law relating to perjury. Thus, the following have been held, prior to the passing of the Perjury Act, to have been judicial proceedings: Commission to examine witnesses (Cro. Cas. 99); examination before magistrate; judicial proceeding in a court baron; or before a local marine board; *R.* v. *Tomlinson*, L.R. 1 C.C.R. 49; or before a county court judge sitting as an arbitrator under the Workmen's Compensation Act; *R.* v. *Cronley*, 1909, 1 K.B. 411; or any other arbitration; or before a judge trying an election petition; or a grand jury; *R.* v. *Hughes*, 1 C. & K. 419; or court martial; *R.* v. *Hearne*, 4 B. & S. 947; or bankruptcy proceedings; or coroners' inquests. But it is to be doubted whether a commission appointed by Parliament to collect evidence on any particular matter, and to report thereon, would have been regarded as a judicial proceeding prior to the Perjury Act, 1911, even though a member of the commission had power to administer oaths and to take some evidence alone. Under the Perjury Act, 1911, however, the sittings of such a commission would probably be regarded as "judicial proceedings," since the commission would be a tribunal, having by law power to hear, receive and examine evidence on oath (s. 1 (2) of the Perjury Act, 1911). But would such a body be regarded as a "judicial body," whose proceedings were "judicial proceedings," under the Judicial Proceedings (Regulation of Reports) Act, 1926? Time alone will show the construction which the courts will put on these ambiguous provisions contained in that Act, unless Parliament in the meantime takes steps to make their meaning clearer, by expressly defining what is meant by a "judicial proceeding."

Proceedings against Public Officers.

IN ENGLISH law it is now clearly established that an action will not lie against a Crown official, as such, for a wrong done by him in his public character or employment. In the recent case before TOMLIN, J., of *Hutton* v. *Secretary of State for War*, 43 T.L.R. 106, where the principle was re-affirmed, a gallant attempt was made, on the strength of a dictum of Lord DAVEY in *Nireaha Tamaki* v. *Baker*, 1901, A.C. 561, to escape from the application of the doctrine. In delivering the judgment of the Judicial Committee of the Privy Council in the case just mentioned, Lord DAVEY said that "their lordships hold that an aggrieved person may sue an officer of the Crown to restrain a threatened act purporting to be done in supposed pursuance of an Act of Parliament, but really outside the statutory authority." Isolated from its context this passage certainly lends colour to the view contended for on behalf of the plaintiffs in the action before TOMLIN, J., but as that learned judge pointed out, all that Lord DAVEY was saying throughout his judgment was that, in such a case, if the defendant were sued as an individual, it would be no defence for him to say that the act complained of was done by him as an officer of the Crown. This, of course, is also trite law; but it remains true, as was again laid down by TOMLIN, J., that an action is not maintainable against an official of the Crown, sued, not in his individual capacity, but as a servant of the Crown for a trespass or other wrong. It cannot be said that the law in this matter is altogether satisfactory, but any amendment of its harshness must come, if at all, from the Legislature.

Trade Union Law:

Proposed Reforms Discussed.

By E. P. HEWITT, K.C., LL.D.

Ministers stand pledged to amend the Trade Union Law as now existing, and many suggestions from different quarters are received by them as to the form which such amendments might take. Some people desire the Trade Union Law to be codified—the existing Acts being repealed, and one comprehensive statute enacted in their stead. There is a good deal, in theory, to be said for this course, but the practical difficulties are overwhelming. A policy of repeal—although with a view to codification and amendment—would certainly be regarded by organised manual labour as a direct attack upon privileges obtained after many years of struggle, and very strenuous resistance would, therefore, have to be faced. Moreover, it would be extremely difficult to draw the line between Trade Union Acts expressly so named and other statutes affecting Trade Unions but not called Trade Union Acts. Would the Employers' and Workmen's Act, 1875, for example, or the Conspiracy and Protection of Property Act, 1875—both of which Acts are concerned with the relations between employers and workmen—be regarded for the purposes of codification, as Trade Union Acts? In this connexion it may be pointed out that prior to the Trade Disputes Act, 1906, the right of picketing rested on the proviso to s. 7 of the Conspiracy and Protection of Property Act, 1875; which, as has been mentioned, was repealed and replaced by a wider clause in 1906. Again, are such enactments as the Coal Mines Regulation Acts of 1887 and 1908 and the Coal Mines Acts of 1919 and 1926—which restrict hours of labour and contain other regulations concerning work in mines—to be regarded as Trade Union Acts?

Assuming the proposal for codification to be discarded, and the policy of introducing amendments into the existing law to be adopted, the question arises, what form the Amending Bill should take. The aim should be, it is thought, to disturb the *status quo* no further than is essential in the public interest, and that any amendment decided upon should be expressed in the fewest possible words. Proposals have been made in Parliament, and Bills brought in, to effect such a sweeping change as the total repeal of the Trade Disputes Act, 1906. But such proposals go further than is required in the public interest, and can hardly be regarded as practical politics.

Apart from codification, and apart also from the total repeal of any of the existing Acts, certain definite proposals for amendment have been made, of which I select the following as deserving careful consideration; although, personally, for the reasons indicated, I should not advise that these particular reforms should be adopted:—

1. *Compulsory registration of all Trade Unions.*

This system prevails in France, and has been found successful. Every Trade Union in France must on its formation be registered, a copy of its rules and objects being deposited with a Government Department and also a statement of the names of the officers of the society, with certain other particulars; and all this information must be kept up to date, any change in the rules or objects, or in the personnel of its officers, being duly notified to the Government officials. The objects of a Trade Union in France must be industrial and not political; and a breach of the provisions relating to registration renders the society liable to be dissolved. In this country, however, although Trade Unions which register have many advantages over those which are unregistered, registration has throughout been optional; and to insist that there must be registration would be resented, and if enacted would be, it is thought, of small practical value. Practically all the unions which took part in the general strike were registered Trade Unions; but this in no way assisted the authorities. The position of the authorities would in fact have been stronger if the Trade Unions taking part in the strike had not been registered. Under the Act of 1913, Trade Unions, if registered, continue to be Trade Unions within the Acts so long as they are on the register; but a Trade Union not on the register, and not holding a certificate given by the Registrar under s. 2 (3), would cease automatically to be within the Trade Union Acts if its principal objects were no longer statutory objects.

2. *A compulsory ballot before a strike.*

This proposal would be regarded by the Trade Unions as open to grave objection, both because it introduces compulsion where before there was none, and because it might involve a delay interfering with the possible success of a strike.

3. *The supervision by Government officials of Trade Union ballots to secure secrecy.*

Even if such supervision were confined to ballots held for the purpose of determining whether a strike should be entered upon, or, if already entered upon, whether it should be continued, it would be difficult to secure its enforcement. Such a change, moreover, would require, apparently, the appointment of a large number of officials, ready in all parts of the country to perform the duties of supervision, at any time that any one of the numerous Trade Unions, or any of their still more numerous branches, might think fit to hold a ballot.

4. *To allow agreements between members of a Trade Union (e.g., agreements relating to benefits to members) to be enforced before the Courts, thus repealing in whole or in part s. 4 of the Trade Union Act, 1871.*

As to this proposal it may be observed that it does not touch the more serious mischiefs resulting from the present state of the Trade Union Law.

5. *The prohibition of civil servants forming or joining a Trade Union.*

This would certainly have been reasonable; but the question is whether it is not now too late to make such a change.

6. *The total abolition of picketing.*

It is fairly open to argument that picketing ought never to have been allowed. The practice is apt to lead to intimidation and violence; and it appears, in any case, to be an undue interference with personal freedom. But the right is one which, in a qualified form, the Legislature recognised as early as 1859, in the Molestation of Workmen Act of that year. This Act was repealed by the Criminal Law Amendment Act, 1871; but a qualified right of picketing was again impliedly conferred by the Conspiracy and Protection of Property Act, 1875. After the length of time, therefore, during which a statutory right of picketing has been allowed, its total abolition would now be impracticable.

7. *The abolition of the exemption of Trade Unions from liability in respect of torts committed by them or their agents.*

This change would involve the repeal of s. 4 (1) of the Trade Disputes Act, 1906. That the exemption at present is too wide will hardly be denied. It extends—except in the rare cases in which a Trade Union can be sued through its trustees for torts in connexion with its property—to all civil wrongs, whether committed in furtherance of a trade dispute or not. On the other hand, Trade Unions are, not unreasonably, apprehensive that if the exemption were completely removed their funds might be seriously depleted in paying damages in respect of torts committed by over-zealous agents.

8. *A statutory declaration of the illegality of a general strike.*

Such illegality being already recognised, a statutory declaration would not appear to be of much value. The introduction of a Bill for the purpose would be regarded as provocative, whilst achieving no useful purpose. Moreover, how would it be possible in a statute to define a "general

strike ?" The strike of last summer was very extensive, but it was far from universal. A strike cannot be called "general" because more than one Trade Union take part in it. How many Trade Unions, acting together, would be required to make a strike a general strike within the proposed statutory definition ? The illegality of the strike of last summer, it should be borne in mind, was due rather to its objects and methods than to its generality or extent.

Whilst it seems inexpedient to attempt to carry out any of the particular reforms indicated above, there are amendments of a less drastic nature of which, it is believed, public opinion would generally approve.

(To be continued.)

Some Points of Highway Law.

VIII.

By ALEXANDER MACMORRAN, M.A., K.C.

(Continued from p. 27.)

Section 11 of the Act of 1888 further provides that the county council and any district council (an expression which includes a rural district council) may from time to time contract for the undertaking by the latter of the maintenance, repair, improvement and enlargement of and other dealing with any main road, and that if the county council so require the district council shall undertake the same, and such undertaking shall be in consideration of such annual payment by the county council for the cost of the undertaking, as may from time to time be agreed upon, or, in case of difference, be determined by the Ministry of Transport, and for the purposes of such undertaking the district council shall have the same powers and be subject to the same duties and liabilities as if the road was an ordinary road vested in them. In the case of a rural district council, the highways are not, as in urban districts, vested in the council, and the words of the section must therefore be interpreted as referring to an ordinary highway under the control of the council, though, strictly speaking, it is not vested in them at all.

The Legislature seem to have recognised the difficulties which might arise in practice where the spending authority is a district council and the paying authority is the county council, for it has provided that in no case shall a county council make any payment to a district council towards the costs of such undertaking as respects any road or towards the costs of the maintenance, repair or improvement of any road by an urban authority until the county council are satisfied by the report of their surveyor, or such other person as the county council may appoint for the purpose, that the road has been properly maintained and repaired or that the improvement or enlargement of or other dealing with the road, as the case may be, has been properly executed.

Section 11, s-s. (6), provides that a main road and the materials thereof and all drains belonging thereto shall, except where the urban authority retain the control of such road, vest in the county council, and where any sewer or other drain is used for any purpose in connection with the drainage of any main road the county council shall continue to have the right of using such sewer or drain for such purpose, and if any difference arises between a county council and any district council as respects the authority in whom a drain is vested or as to the use of any sewer or other drain, either council may require such difference to be referred to arbitration in manner provided by the Local Government Act, 1888.

The meaning of the word "vest" has been the subject of much discussion in connection with other Acts. Notably it has been discussed in cases arising out of the Public Health Act, 1875, s. 149, by virtue of which, in an urban district, highways repairable by the inhabitants at large are vested in the authority. It may be sufficient here to quote the judgment of Lord HERSCHELL in the case of *Tunbridge Wells Corporation* v. *Baird*, 1896, A.C. 442, where he says that the vesting of a street vests in the urban authority such property only as is necessary for the control, protection and maintenance of the street as a highway for public use. In this connection reference may be made to *Curtis* v. *Kesteven County Council*, 45 Ch. D. 504. It was there decided that while strips of grass bordering the metalled part of a main road were roadside wastes within the meaning of s. 11 (1), the herbage on such strips is not vested in the council by virtue of s. 11 (6). The ground of the decision was that the Act gave to the county council the power of asserting the right of the public to the use and enjoyment of the roadside wastes which was inconsistent with the idea that the roadside waste was the property of the council itself. Accordingly the council were restrained by injunction from cutting and removing the grass, timber and other growths from the sides of the main road. The result is certainly curious. The public right presumably extends to the entire space within the fences, and although the county council are required to protect the public rights over the entire space, nothing is vested in them beyond the metalled road.

Mention has been made in the course of the preceding article of Government grants. Before the Local Government Act, 1888, came into force the cost of the maintenance of the main roads within a county was borne as follows :—

(*a*) One-half by an Exchequer grant,
(*b*) One-quarter by the county, and
(*c*) One-quarter by the highway authority.

The Act of 1888 abolished grants in aid of local taxation and substituted for them what was called the Exchequer contribution, which consists in the proceeds of the local taxation licences, a share of the estate duty and the residue under s. 1 of the Local Taxation (Customs and Excise) Act, 1890. This grant was distributed among the several counties and county boroughs in England and Wales in the way provided for by the statute, but questions arose as to how far and in what way the share of a county was affected by the creation of a new county borough or the extension of an old one. The controversy came before the court in two cases which are extremely difficult to reconcile one with the other : *Glamorgan County Council* v. *Cardiff City Council and Swansea Borough Council*, 1915, 3 K.B. 438 ; and *Southampton County Council and Bournemouth Borough Council* (*in re*), 1922, 2 K.B. 314. These controversies were put an end to by a provision in the Local Government (Adjustments) Act, 1913, which provided that after payment of what were called the priority grants, out of the balance, if any, of the Exchequer contribution account there was next to be apportioned to the council of the administrative county from which the area was severed a sum equal to one-half of the average annual cost during the five years preceding the appointed date of the maintenance of main roads within the county, including any payment made in respect of the interest on or of the repayment of the capital of loss raised on account of such main roads after deducting the amount of half of such cost incurred in respect of main roads within the area separated from the county, and such last-mentioned amount was to be apportioned to the council of the other administrative county. This provision is subject to an important proviso to the effect that if it appears that the council of the administrative county from which the area is severed have failed to declare any roads in the county to be main roads which ought to have been so declared or to have declared any roads to be main roads which ought not to have been so declared, proper adjustments shall be made in the calculation of the cost of maintenance of main roads in the county under this rule by the inclusion of the cost of such roads as ought to have been declared to be main roads or the exclusion of the cost of such roads as ought not to have been declared to be main roads, as the case may require.

The space at disposal does not permit of the discussion of the important provisions of the Roads Act, 1920. These provisions require separate treatment.

(To be continued.)

Commercial Law and Equitable Principles.

THE Judicature Act, 1873, having provided that various equitable rights and principles hitherto only enforced in the Chancery Courts should be given effect to in all Courts, whether of Common Law or Equity, finally enacted by s. 25, s-s. (11): "Generally in all matters not hereinbefore particularly mentioned in which there is any conflict or variance between the rules of equity and the rules of common law with reference to the same matter, the rules of equity shall prevail." This has been re-enacted by s. 44 of the Judicature Act, 1925.

In *Pugh* v. *Heath*, 7 App. Cas. 237, Earl CAIRNS said: "The Court is now not a Court of Law nor a Court of Equity, but a Court of complete jurisdiction, and if there were any variance between what, before the Judicature Act, a Court of Law and a Court of Equity would have done, the rule of the Court of Equity must now prevail." Maitland indeed (*Equity* p. 156) doubted whether the sub-section could have any substantial operation, as it assumed a variance between Equity and Common Law which did not in fact exist, the former rather supplementing the latter. The ideal aimed at, however, of a single system of law, administered alike in all the Courts, has never been fully realised in practice. It is not long since the jurisdiction in bankruptcy was transferred to the Chancery Division, and the result is that we have judges trained in the application of principles of equity faced with problems of mercantile law.

There are various points at which commercial law has never assimilated equitable doctrines, and hence a conflict arises between the two systems which is apparently irreconcilable.

Such a conflict is revealed by the recent case of *Re Wait* (reported p. 56), where difficult questions arose as to the application of the equitable remedy of specific performance to a contract for the sale of goods.

WAIT was a corn dealer at Bristol and entered into a contract for the purchase of a cargo of 1,000 tons of "Western white" wheat, a particular quality of American wheat, to be shipped from Oregon to Avonmouth by motor vessel, *Challenger*, expected to arrive about 24th February, 1926. Immediately afterwards he sold 500 tons, part of the cargo, to sub-purchasers, payment to be made on 6th February. On 5th February the sub-purchasers, having received an invoice for the wheat, paid WAIT a cheque for the price, £5,933, and this was paid into a general account at the bank, which, having a charge on the cargo, transferred it to a loan account. The ship and cargo arrived at Avonmouth on 28th February and the sub-purchasers claimed delivery of their 500 tons. It was admitted that there had been no appropriation, and the property had not passed. But in the meantime, on 24th February, WAIT had been adjudicated bankrupt. The official receiver paid off the bank's charge, but refused to deliver the wheat, and the sub-purchasers moved in the county court for specific performance. This was refused, but the trustee who had by then been appointed was ordered to refund the price. Both sides appealed, and ASTBURY and LAWRENCE, JJ., sitting as the Divisional Court in Bankruptcy, discharged the order of the county court judge, and ordered specific performance of the contract as being one for the sale of "specific or ascertained goods" within the meaning of s. 52 of the Sale of Goods Act, 1893, (1926 Ch. 962). On appeal the Court of Appeal has allowed the appeal, but by a majority only. The two common law judges, Lord HANWORTH, M.R., and ATKIN, L.J., agreed that the appeal must be allowed, and that the sub-purchasers' only remedy was to prove in bankruptcy for damages, but SARGANT, L.J., dissented, holding with the Chancery judges in the court below that it was contrary to natural justice that the trustee should keep the price of the wheat and refuse to deliver the goods. The conflict of opinion extends to the interpretation and application of s. 52, the majority holding that, as the 500 tons had never been separated from the rest of the cargo, the wheat sold could not be said to be "specific" or "ascertained." SARGANT, L.J., thought that there was overwhelming authority for the proposition that the wheat came under the definition of "specific goods," that the fact that only 500 tons, and not the entire 1,000 tons, was sold made no difference, and that there was a good equitable assignment in favour of the purchaser.

ATKIN, L.J., on the other hand, thought the decision of the Divisional Court violated well-established principles of law and equity, and if upheld would seriously embarrass commercial transactions and the banking operations which attended them. At no time were the goods identified, ascertained or appropriated from the rest of the cargo; no one could say where or which was the wheat sold. He had never heard of an unpaid vendor being given a lien on goods in the possession of the purchaser, or a purchaser who had paid, a lien on the goods in the vendor's possession. If bankers, who financed most import transactions, were affected by equitable obligations over goods, on the documents relating to which they had made advances, the business world would be thrown into confusion and credit might be seriously restricted. To which SARGANT, L.J., replied that he could not assent to the view that ordinary business would be interfered with by the decision under appeal, for ordinary business was not conducted dishonestly, and it would have been dishonest for WAIT to refuse to deliver the wheat to the purchasers and to sell it to some other person.

It comes back to this, therefore, was the action of the trustee in bankruptcy, in keeping the whole of the purchase price and refusing to deliver the wheat, honest in law? A trustee in bankruptcy is bound to get in all the assets he can for the benefit of the creditors generally, but is he entitled so to act as to cause special hardship and damage to an individual creditor? In the well-known case of *ex parte James*' 9 Ch. App. 609 where it was held that a trustee could not keep money paid under a mistake of law, JAMES, L.J., said at p. 614: "A trustee in bankruptcy is an officer of the court. He has inquisitional powers given him by the court, and the court regards him as its officer, and he is to hold money in his hands upon trust for its equitable distribution among the creditors. The court, then, finding that he has in his hands money which in equity belongs to someone else, ought he not to set an example to the world by paying it to the person really entitled to it. In my opinion the Court of Bankruptcy ought to be as honest as other people." And the principle was applied and even extended in *Re Tyler*, 1907, 1 K.B. 865.

This is not the only recent case in which the decision of a Commercial Court would appear to be incompatible with equitable principles. In *Proctor Garrett, Marston & Co.* v. *Oakwin Steamship Co.*, 1926, 1 K.B. 244, charterers sold a cargo of wheat described in the contract as being on board a vessel "arrived St. Vincent." Literally this statement was perfectly true, the ship had arrived at St. Vincent, but after sending a wireless message for orders which twenty-four hours later had not come, had left the port of call at the date of the contract, and was on its way to its destination, but was still within wireless communication of St. Vincent, so that the purchasers could have notified any change of destination. The purchasers did not notify any such change! but the price having fallen they refused the cargo on its arriva,, and the court held that they were entitled to do so, because, by commercial law, the expression "arrived St. Vincent" meant "arrived and still at St. Vincent," and the ship was not at St. Vincent when the contract was signed. Such a decision may be good commercial law, but it does not appear to be in accord with equitable principles, and it is in flat contradiction to the maxim, *Falsa demonstratio non nocet, si de corpore constat*. Here the cargo sold was in the ship named, and arrived at the destination the purchasers intended;

and only then did they discover that they could take advantage of a technical misdescription to repudiate the contract. They could have sent orders to St. Vincent which might not have reached the ship, but they did not do so.

It is, perhaps, unfortunate that the case of *Re Wait* cannot be taken to the highest tribunal, but being an appeal from a county court in bankruptcy the decision of the Court of Appeal is final (Bankruptcy Act, 1914, s. 108).

A Conveyancer's Diary.

Stamps on Compensation Agreements.

In law, as in fact, things are not, it appears, always what they seem to be! In the light of that much-needed warning, let us examine the law and practice as to stamp duty on compensation agreements for the extinguishment of manorial incidents.

A compensation agreement for the purposes of the L.P.A., 1922, means an agreement as to the compensation to be paid in respect of the manorial incidents extinguished under the Act; see L.P.A., 1922, s. 138 (1), (3). For the purpose of effecting compensation agreements, however, the meaning of the expression "manorial incidents" is extended by *ib.*, s-s. (12), which enacts that the lord and the landowner, or other persons authorised to make the compensation agreement, may agree that any right of the lord which is preserved by the Twelfth Schedule (e.g., minerals, easements, sporting rights, fairs, etc.: *ib.*, para. (5)), *shall be treated as a manorial incident and be extinguished as if it were a manorial incident* . . . This seems to the "reasonable man" clearly to state that minerals, easements, sporting rights, etc., are to be treated as manorial incidents extinguishable under the Act.

Part I of the 13th Sched. to the Act contains a form of compensation agreement which may be used, with any necessary variations, when such agreements are effected otherwise than under the Copyhold Act, 1894.

Indication is given in *ib.*, s. 138 (12), of the matters which properly come within the scope of compensation agreements. These include:—

(1) Any right of the lord which is preserved by the 12th Sched. to the Act, i.e., mines, minerals, easements, sporting rights, fairs, etc.

(2) Any estate or right of the owner of the land, such as a right of common or an easement for working mines and minerals, or a right to let down the surface.

In the latter case, if the landowner grants rights to the lord, the grant must be under seal: see note (part of the statute) to Form No. I in L.P.A., 1922, 13th Sched., Pt. I.

The contents of L.P.A., 1922, s. 139 (1), now require attention. That sub-section provides that "For facilitating the extinguishment of manorial incidents under this Part of this Act whether effected under the Copyhold Act, 1894, as applied by this Part of this Act, or independently of that Act the following provisions shall have effect . . .:—

> (vii) where manorial incidents have been extinguished within ten years after the commencement of this Act by agreement . . ., the agreement . . . shall not be chargeable with any stamp duty . . ."

The form of compensation agreement contained in the 13th Sched., Pt. I, was obviously settled on the assumption that no stamp duty was payable in any circumstances on a compensation agreement containing no matter extraneous to that which was contemplated by the Act as properly within the scope of the Act, for the form contains no certificate as to the value or consideration. It is of interest to note that the learned editors of I Wolstenholme & Cherry (see p. 75) unqualifiedly assert with reference to the same form and on the authority of s. 139 (1) (vii), *supra*, that "No stamp duty is payable in respect of compensation agreements." Compare Preliminary Note in I Prid., p. 868 (13).

Further, in not one of the precedents of compensation agreements given in I Prid., pp. 879-888, is there any suggestion other than that no stamp duty at all is payable; though precedent No. XIII, for example, contemplates rights being granted by the owner of the land as part of the consideration for the extinguishment.

The conclusion at which we inevitably arrive is that the payment of stamp duty is not contemplated in the Act where the compensation agreement does not purport to deal with any extraneous matter.

Now, it is understood that the Inland Revenue are claiming payment of stamp duty (in some cases an *ad valorem* stamp) in respect of certain compensation agreements. Reference to this claim is made in the addenda to I Prid. p. 872, contained in III Prid. p. cxxxiii, where the warning is given that if the claim of the Inland Revenue continues, the "usual certificate of the amount of the consideration, or as to the parts attributable to the rights, must be added," where necessary.

As far as can be ascertained from correspondence we have had, the circumstances in which the Inland Revenue demand payment of stamp duty are as follows:—

(1) Where the lord's interest (if any) in the minerals is extinguished by the agreement: L.P.A., 1922, s. 138 (12). The claim is for *ad valorem* conveyance duty in respect of the value (*query* amount?) of the consideration for such extinguishment, provided that if no part of the compensation paid by the landowner is *expressed* to be payable in respect of the lord's interest in the minerals, the agreement, it is claimed, is chargeable with the minimum *ad valorem* duty of 1*s.*; or with 6*d.* where a certificate under the Finance (1909-10) Act, 1910, s. 73, is duly given in the agreement.

In addition a claim is made for a fixed stamp of 10*s.* if the agreement is under seal, or 6*d.* if under hand (unless, in the latter case, the value of the interests concerned is under £5). This apparently can only be on the footing that the enactment freeing the agreement from stamp duty is a nullity.

(2) Where the compensation agreement provides for the compensation to include any estate or interest of the landowner. The claim, where the agreement refers to minerals, is for stamp duty of 10*s.*, as on agreement (*query* under seal?), and as an exchange for 10*s.* (subject to Stamp Act, 1891, s. 73). If it relates to reserved rights other than minerals a claim is only made for a 10*s.* stamp duty (*query* under seal?).

(3) Where the lord is retaining his interest in the minerals (the other rights of the lord being extinguished), and the landowner releases any right he may have to the minerals and grants an easement as part of the compensation, the stamp claimed as necessary is 10*s.*

We feel like Alice through the Looking-Glass, things are so topsy-turvy. Will any kind friend enlighten us as to the working of the official mind?

To make our position perfectly clear, the matters at issue are these:—

(1) Are there any compensation agreements free from any and all forms of stamp duties?

(2) If there are, which are they?

(3) What compensation agreements have to be stamped:—

> (*a*) With a ten-shilling deed stamp;
>
> (*b*) With an *ad valorem* conveyance duty?

(4) On what ground can the stamps, or any of them, claimed be justified?

We quite appreciate that foreign matter must not be introduced into these agreements, without attracting a stamp. But the claims of the Inland Revenue are made when only matters which are, or are deemed to be, manorial incidents are included in the compensation agreements.

The whole affair looks like a succession of pin-pricks. It appears on the face of it as if the Act of Parliament were being over-ridden by the Executive. There may be

some technical justification for the claims, but they are clearly made against the spirit of the Act.

Each case is so petty that we cannot hope to obtain a decision of the courts unless the lords and landowners combine to state a case.

In these circumstances would it not be well for a question to be put in Parliament when it meets, to lighten our darkness ?

Landlord and Tenant Notebook.

Decontrol of Premises where Part Sub-let.

The subject of decontrol was again considered by the courts in the case of *Doulin* v. *Parcell*, *Times*, 17th Dec., 1926. Premises to which the Rent Acts applied had been let in November, 1922, for three years, at the expiration of which term the tenant continued in occupation, apparently as a statutory tenant. In November, 1924, the tenant sub-let a part of the premises. On an application made by the sub-tenant for an apportionment, the tenant claimed that the part in question had become decontrolled, at any rate as between himself and the sub-lessee, inasmuch as he (the tenant/sub-lessor) had been in possession of the part in question since the material date, the 31st July, 1923, by virtue of s. 2 (1) of the Rent and Mortgage Interest Restrictions Act, 1923. Section 2 (1) provides that " Where the landlord of a dwelling-house to which the principal Act applies is in possession of *the whole of the dwelling-house* at the passing of this Act, or comes into possession of the *whole of the dwelling-house* at any time after the passing of this Act, then from and after the passing of this Act, and from and after the date when the landlord subsequently comes into possession, as the case may be, the principal Act shall cease to apply to the dwelling-house."

Now, had this provision stood alone, it might have been argued that the part in question had become decontrolled as between the tenant/sub-lessor and his sub-lessees, since the former was the landlord of the latter, and the part in question was a " dwelling-house " to which the Acts applied. It will be noted that the Acts apply not only to a house, but also to " part of a house let as a separate dwelling " (s. 12 (2) of the Increase of Rent and Mortgage Interest Restrictions Act, 1920, *Woodifield* v. *Bond*, 66 Sol. J. 60 ; 406). Indeed, in *Dunbar* v. *Smith*, 1926, 1 K.B. 360, the Divisional Court expressly held that a part of a dwelling-house had become decontrolled. In that case the three floors of a house had each been separately let, since August, 1914, by the landlord, who, be it observed, *had been treated in the court below for all purposes as the owner, no point having been taken as to his exact position.* In 1916, one of these floors had been let to one P, who remained in occupation until November, 1923. On P vacating the floor, the " landlord " went into possession and subsequently let it to another tenant. The court held that the floor in question had become decontrolled on the ground that it was to be regarded as a " dwelling-house " for the purpose of the Rent Act. It should be carefully noted moreover that in this case each of the floors had been let separately since August, 1914, and that each had an individual standard rent, which was to be determined by the rent payable in August, 1914. Each floor therefore was clearly a " dwelling-house," though this would not have been the case had the whole structure (i.e., the three floors) been let as a whole in August, 1914, and one floor subsequently let to a new tenant. In such a case, it is submitted, there would have been no decontrol of the part so reserved, even though the landlord came into possession of that part, at or subsequently to the material date. The *ratio decidendi* of *Dunbar* v. *Smith* is to be found in the following passage from the judgment of Lord Justice Bankes (1920, 1 K.B , at p. 363): " It is necessary to bear in mind that the whole scheme of these Acts rests upon the possibility of a structure becoming, for the purpose of the Acts, a number of dwelling-houses, and when s. 2 (1) (of the 1923 Rent Act) speaks of the landlord of a dwelling-house to which the principal Act applies, it is referring definitely to what the Act of 1920 prescribes shall be deemed to be a dwelling-house, that is to say, any part of a house separately let, the rent of which is within the statutory limit . . . It seems to me that when the section speaks of ' a dwelling-house to which the principal Act applies ' and of ' the whole of the dwelling-house,' it is speaking of the same thing. Whether it is in fact the whole structure or whether it is in fact a part only of the whole structure depends upon whether it comes within the definition of a dwelling-house for the purposes of the statute." At the same time it is submitted that these words are not to be read as meaning that where a whole house is let, and possession of part thereof is yielded to the landlord by the tenant, after the material date, that part will become decontrolled, since the effect of so holding would be to deprive the expression " whole " in s. 2 (1) of every meaning whatsoever, and to render it meaningless.

As we have already mentioned above, had s. 2 (1) stood alone without the provisos that qualify it, the lessor in *Parcell* v. *Doulin* might possibly, on the authority of *Dunbar* v. *Smith*, have successfully maintained that the part of the house in question had been decontrolled, if he could have proved that the rooms in question had always been treated as a separate dwelling-house.

The first proviso to s. 2 (1), however, entirely defeated his claim. According to that proviso, " where part of a dwelling-house to which the principal Act applies is lawfully sub-let, and the part so sub-let is also a dwelling-house to which the principal Act applies, the principal Act shall not cease to the part so sub-let by reason of the tenants being in or coming into possession of that part."

This part of the proviso may be illustrated in the following manner: A (landlord) lets to B in 1915. B sub-lets to C (whether before or after 31st July, 1923, being immaterial). At some date subsequent to the 31st July, 1923, B comes into possession of the part sub-let to C. That part remains controlled in the same way as the remainder of the premises which has been in the continuous occupation of B : *Catto* v. *Curry*, 1926, 1 K.B. 460. The whole of the premises can only become decontrolled on B's yielding possession of the *whole* to A, *with vacant possession.*

But according to the latter part of the above proviso, " if the landlord is in, or comes into, possession of any part not so sub-let, the principal Act shall cease to apply to that part, notwithstanding that a sub-tenant continues in, or retains possession of any other part by virtue of the principal Act." This may be illustrated as follows : A (landlord) lets to B in 1916 ; B sub-lets to C (whether before or after 31st July, 1923, being immaterial). B wishes to vacate, and he yields up to A possession of the premises, with the exception of that part which is still retained by C, the sub-tenant, possibly as a statutory tenant. While the part retained by C still remains controlled, the remainder of the premises vacated by B becomes decontrolled.

It is hardly necessary to add that it is the first part of the above proviso which is material for the purpose of determining the case of *Doulin* v. *Parcell*, and that this case is directly covered by the decision in *Catto* v. *Curry*, *supra.*

In considering the above cases, we have made no mention of who is the proper person to be regarded as the " landlord " for the purposes of s. 2 of the Rent Act, 1923. Suffice it to say that he need not necessarily be the freeholder, and that it may be exceedingly difficult to determine who is the " landlord " for the purposes of decontrol where there is a series of persons having leasehold interests in the property. On this point some assistance may be obtained from the case of *Jenkinson* v. *Wright*, 1924, 2 K.B. 645.

LAW OF PROPERTY ACTS.

POINTS IN PRACTICE.

Questions from Annual Subscribers are invited and will be answered by an eminent Conveyancer. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4. The name and address of the Subscriber must accompany all communications, which should be typewritten (or written) on one side of the paper only and be in triplicate. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post.

INTESTACY IN 1904—DEATH OF ADMINISTRATRIX WITHOUT HAVING CONVEYED REALTY TO HEIR—TITLE.

604. *Q.* In 1903 Mr. A and his two sisters, Miss B and Miss C, were seised as tenants in common in equal shares (subject to their mother's life interest) of a freehold house. In July, 1904, during the mother's lifetime, C died intestate leaving her brother A her heir-at-law. C's mother took out letters of administration to her deceased daughter's estate. Some fifteen years afterwards the mother also died without ever having executed a conveyance of C's undivided third to A as heir-at-law under the provisions of s. 3 (1) of the L.T.A., 1897. After the mother's death, i.e., in 1919, A and B entered into a contract to sell the house to X. The property was conveyed accordingly, A being expressed to convey two-thirds as beneficial owner, and B, the remaining one-third as beneficial owner. Subsequently X mortgaged, and it was then discovered that there was a flaw in the title inasmuch as no conveyance by the administratrix of C's one-third share to A had ever been executed. The administratrix had left a will appointing executors of whom A and B were two. A deed was accordingly prepared, whereby the executors of the deceased administratrix purported to convey (by the direction of X) C's one-third share to the mortgagee. A fresh mortgage is now being arranged. It would appear however that the executors of the deceased administratrix were not the personal representatives of C, and therefore the conveyance by them of the legal estate in C's one-third share was ineffective. Section 30 (1) of the Conveyancing Act, 1881, does not seem to apply. Can the outstanding estate be got in otherwise than by obtaining a *de bonis non* grant? The case does not appear to be one to which Pt. II of Schedule 1 of the L.P.A., 1925, applies.

A. It has been expressly held that, on the death of an intestate between 1898 and 1925, realty vests in the heir until administration is taken out, see *John* v. *John*, 1898, 2 Ch. 573 (reported on another point, but see pp. 576-577), and see also *Re Griggs*, 1914, 2 Ch. 547. The opinion is here given that the death of the administratrix which caused a failure in the office of legal personal representative, again vested the legal estate in the heir, from whom it was only divested for the purposes of administration. The alternative would be that it vested in the heir of the administratrix, and in either case a grant *de bonis non* would divest it. Here the fact that the heir of the intestate and administratrix is the same person simplifies matters, for A held the legal estate in the third as one or the other, and, his deceased sister's estate presumably having long since been cleared, was also entitled in equity in 1919. If the above view is right X acquired a good title on the original conveyance to him, and a grant *de bonis non* in respect of Miss C's estate is unnecessary.

SETTLED LAND—DEATH OF TENANT FOR LIFE IN 1926—SEVEN REVERSIONERS—TITLE.

605. *Q.* A testator, A.L., died in 1914, having made a will—apparently home made—appointing one, E.A., the sole executor and giving all his property to his wife, Mrs. L, for life "and at her death to be equally divided between all his children then living." The will was duly proved by E.A., who died in February, 1926, having made a will appointing H.A. and A.W.L. as the executors, who duly proved it. In October, 1926, Mrs. L, the life tenant, died, no vesting deed having been made in respect of her life interest. There were no trustees of A.L.'s will. He left seven children living at his wife's death, who are all of age. Mrs. L had some property of her own, and left a will appointing as sole executor the same person, E.A., who was appointed by her husband's will. The property of which she was tenant for life under her husband's will comprises a house in which she lived and which it is now desired to sell. The first question that arises is, who can enter into a valid contract for sale? Subject to what is said below about the proper person to execute an assent to the vesting in the remaindermen or whoever represents them, the house will be vested in the Public Trustee under Sched. 1, Pt. IV (1), of the L.P.A., 1925, although he cannot act until he is requested so to do, and his estate may be divested on other trustees being appointed by the remaindermen. In either case, it is suggested that the seven remaindermen would be the proper persons to enter into a contract for sale. A somewhat complicated question arises with regard to the assent by the personal representative of Mrs. L to the devise to the remaindermen. Reference has been made to the "Conveyancer's Diary," 70 SOL. J., p. 1061, dealing with the case of *In re Dalley*. In that case, however, the deceased tenant for life had no estate other than her life interest, but here the position is different, as Mrs. L had some free estate of her own, and it does not seem clear whether her general personal representative can validly assent to the devise, or whether representation in favour of a special personal representative will not have to be taken out as well. It is intended that letters of administration with the will annexed shall be applied for in respect of the life tenant's own free estate by the said A.W.L., who is one of Mrs. L's children, and presumably, if a special personal representative has to be appointed, he might doubtless take the special grant also. What is desired, of course, is that the assent should protect the purchaser. In this connexion, it is understood that the Probate Registrar requires that the grant, which is being applied for in respect of the free estate, shall be limited on the face of it to property other than settled property of which Mrs. L was only tenant for life. If the grant were limited in that way, it is suggested that an assent by the personal representative might not be valid, for the reason that, as he would be taking out letters of administration with the will annexed and not proving the will, he would derive his representative character from the court, and if the grant of the court were limited to property other than settled property an assent might be worthless. On the other hand, it is stated in "Wolstenholme & Cherry's Conveyancing Statutes," 11th ed., Vol. I, p. 491, that if representation is granted to the estate of the tenant for life, his personal representatives can assent to the fee passing to the remaindermen, for, on the death, the land is not settled land. If that means that the general personal representatives can validly assent, it seems to sweep away numerous cases in which it may have been thought that special representation was necessary. Several answers to questions—not necessarily in THE SOLICITORS' JOURNAL—have been noted, in which it is always advised that it is special representatives who must assent. May we trouble you with the following specific questions:—

(1) If any contract is entered into for the sale, should it be made by the seven remaindermen?

(2) Can the general personal representative of the tenant for life give an assent to the devise to the remaindermen

(although one of them himself), or must a special personal representative be constituted in order to give the assent ?

(3) After any necessary assent has been made, who should be the conveying party—the Public Trustee, on request, or at least two new trustees to be appointed ? If the latter, by whom should they be appointed ?

(4) When it has been decided who is the proper person to execute an assent, in whose favour has that assent to be executed, and when ? The seven remaindermen cannot all themselves hold the property, or at any rate cannot convey it, and, indeed, it ought not to vest in them at all until they appoint trustees, for the Public Trustee becomes concerned. On the other hand, if the Public Trustee has not been asked to act, ought an assent to be executed in his favour ? He cannot be asked to act by the remaindermen before a vesting assent has been executed in their favour. What is to be done ?

A. After 31st December, 1925, by virtue of the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*c*), the whole fee became vested in Mrs. L, and the estates of the reversioners became equitable estates under s. 1 (8). She was also tenant for life under the S.L.A., 1925, and, under s. 30 (3), E.A. was trustee for the purposes of the Act, with the obligation (not, however, fulfilled) of appointing another. On his death the application of s. 18 (2) of the T.A., 1925, *qua* trustees for the purposes of the S.L.A., 1925, is confined by s. 64 (1) to the appointment of new trustees. His executors are not therefore trustees for the purposes of the Act, but can appoint such trustees, if necessary. Probably it will not be necessary. The legal estate was in Mrs. L, and, on her death, the S.L.A., 1925, trustees would have been entitled under the A.E.A., 1925, s. 22 (1), to probate limited to the settled property. There were no such trustees, and in the circumstances the first step will be to approach the probate authorities to obtain a grant limited to the settled property. Probably it would be given to H.A. and A.W.L. at once. But, until such a grant is obtained, no one can deal with the settled property. On such a grant it will vest in the special representatives, whose duty it will be to pay or provide for death duties, and then either assent or convey to the beneficiaries entitled, or they can sell at once by virtue of the L.P.A., 1925, 1st Sched., Pt. IV, para. 2. If the house is to be sold at once, this seems the simplest and best course. If they convey or assent to the devise to the remaindermen, the conveyance or assent will take effect in accordance with s. 34 (2). There is no vesting in the Public Trustee.

In answer to the questions :—

(1) No. If there has been assent, the four remaindermen first named will be trustees for sale.

(2) As above, only the special representatives can assent.

(3) The special representatives or four beneficiary trustees for sale.

(4) As above. The three remaindermen last named in the assent (if any) have equitable interests only, and the Public Trustee none at all.

APPOINTMENT OF TRUSTEE.

606. *Q.* A and B prior to the 1st January, 1926, are tenants in common of freehold property. On the 1st January, 1926, they hold the property as joint tenants upon the statutory trusts. B died in March, 1926, a widow intestate, leaving her surviving three children, C, D and E, all of whom have attained the age of twenty-one years. C has taken out letters of administration to B's estate, which only consists of the one-half share in the freehold property. A is desirous of conveying his share, and C and D are desirous of conveying their interest in the other share, to E, and the question arises as to how this is to be done. Should A appoint C as a trustee of the joint tenancy, and then A and C, with the concurrence of A, C and D, convey the whole of the property to E absolutely ? There is no money passing in the transaction.

A. There is no need for the appointment of an additional trustee, seeing that there is no receipt to be given. The legal estate in the entirety is vested in A, and he can convey it to E at the request of the beneficiaries. But it may be as well to prevent awkward requisitions in future dispositions by E that an additional trustee be appointed to convey with A. C can be so appointed, but E should not be appointed.

LEGAL RENT-CHARGE—TITLE.

607. *Q.* A perpetual annual rent-charge of forty shillings was created by a deed of grant in 1846, issuing out of and charged upon certain freehold premises in a county where no system of registration is in force, which was conveyed to A.B. in 1856. A.B. died in 1926, having by his will specifically devised the rent-charge to C.D. The executors of A.B. have executed an assent in favour of C.D. The assent is apparently a conveyance within the meaning of s. 205 (1) (ii) of the L.P.A., 1925, but the rent-charge constitutes a legal interest (s. 1, L.P.A., 1925), and therefore does not appear to fall into any of the classes of charges referred to in s. 10 of the L.C.A., 1925, and accordingly the assent is not registrable. In the circumstances, the title deeds being in the possession of the owner of the land out of which the rent-charge is payable, how is a purchaser or mortgagee from the latter to have notice of the rent-charge, and can the rights of C.D. be over-reached or defeated ?

A. The rent-charge is a legal interest under the L.P.A., s. 1 (2) (*b*), and subsists concurrently with the fee simple subject to it under s. 1 (5). The title deeds of the fee simple so subject are not those of the rent-charge. The documents of title of the latter are the original grant, probate of the grantee's will (see answer to last question on p. 9, vol. 70) and the assent. Whether the purchaser of the fee simple had notice of the rent-charge or otherwise, he would be bound to pay it. But any abstracted conveyance of the fee for value would surely be found to be made subject to it, and, having regard to the fact that it was paid yearly, a vendor of the fee could not refrain from disclosing it without fraud, or negligence so gross that it would have the same legal consequences.

SETTLED LAND—SALE ON DEATH OF TENANT FOR LIFE.

608. *Q.* A (who died in the year 1878), by his will devised his freehold property unto two trustees, upon trust to permit his widow to occupy or receive the rents and profits during her widowhood, and after her death, *if the trustees should in their discretion think fit*, upon trust for sale. The widow died intestate in June, 1926, and the surviving trustee of the will desires to sell the property. It would appear that the property vested in the widow on the 1st January, 1926, by virtue of L.P.A., 1925, 1st Sched., paras. 3 and 6 (*a*), and that consequently the surviving trustee would have to obtain a grant of administration limited to the settled estate, and then appoint a second trustee. Will this be correct, and will it be necessary for the surviving trustee, as special administrator, to assent and vest the property in himself and his co-trustee before they can convey ?

A. Yes; see reply to *Q.* 545, p. 1157, *supra*. It is not, however, clear from the wording of the sentence in italics that title can be made by the trustees, *i.e.*, that there is a *binding* trust for sale. If there is no binding trust for sale, title may have to be made by the tenant for life or statutory owners.

PRE-1926 ASSIGNMENT OF PORTION OF LEASEHOLD—COVENANT BY ASSIGNEE TO PAY APPORTIONED RENT—NO LEGAL APPORTIONMENT—BENEFIT OF COVENANT.

609. *Q.* A grants a lease to B for ninety-nine years of Blackacre and Whiteacre. B grants an underlease to C of Blackacre at an improved rental. B assigned to C Whiteacre for the residue of the term granted in the head lease, at an apportioned rental of £12 per annum, but A did not concur in the apportionment. In the assignment, C covenanted with B to pay the apportioned rental of £12 per annum, and he also covenanted that in case B should pay the apportioned rent of £12 he, C, would re-imburse B, and he also covenanted that B should have power to distrain for the same. B died, and left

his leasehold interest in the property, upon trust for sale. New trustees were from time to time appointed and the leasehold interests in Blackacre and Whiteacre were vested in the trustees, but no specific assignment of the covenant entered into by C with B in respect of the apportioned ground rent of £12 was made. X has now agreed to purchase the leasehold interest from the sole surviving trustee, and the method of carrying out the transaction is apparently an asignment of the head lease, subject as to Blackacre to the underlease to C. The question arises, however, as to how the purchaser is to have vested in him the benefit of the covenant contained in the assignment of Whiteacre in respect of the apportioned ground rent of £12 per annum. In the assignment of Whiteacre from B to C, the covenant with regard to the ground rent is made with B, his executors administrators or assigns, but, as already indicated, no specific assignment of this covenant has been made upon the appointment of new trustees. It is desired to know how this matter should be dealt with.

A. C's covenant to B to pay the apportioned rent was a covenant to expend money, and, not being one between landlord and tenant, the burden of it will not, therefore, run with the land against C's assigns, in accordance with the well-known principle laid down in *Austerberry* v. *Corporation of Oldham*, 1885, 29 C.D. 750, nor will the benefit in favour of B's assigns: see *Milnes* v. *Branch*, 1816, 5 M.& S. 411. Thus X *qua* assign has no remedy if C fails to pay the apportioned rent, and A distrains or re-enters on X's premises. However, since X's premises are also C's by underlease, C would also suffer, and no breach of covenant is likely so long as both plots are in the same hands. It is possible, however, that one or other might be assigned, and in that case the position will be altered. If A re-enters on Blackacre in respect of a breach of covenant committed by the assignee of Whiteacre, X will have no remedy against the trustees who convey to him on their covenants for title as such (for no doubt in view of s. 14 of the T.A., 1925, he will insist on another trustee being appointed before conveyance). B's legal personal representatives, however, can enforce the covenant against C or his legal personal representatives, and, if possible, X should procure them to join in the conveyance to agree to enforce the covenant, if necessary. It is assumed above that the assignment of Whiteacre was before 1926, so that s. 77 (5) of the L.P.A., 1925, does not apply. And surely the assignment of the head-lease to X will also be made subject to the assignment of Whiteacre to C.

TRUST FOR SALE—EQUITABLE INTERESTS.

610 *Q.* X and Y were recently the trustees of the before-mentioned property, upon trust for sale, but in the events which happened, X became entitled absolutely to one-half of the leasehold property, and as tenant for life of the other part. X is now dead, leaving Y sole surviving trustee. In whom is the legal estate—

(*a*) In Y under the original trust for sale?

(*b*) In X's personal representative and Y? or

(*c*) In Y, upon the statutory trusts?

A. Y remains trustee for sale upon the original trust for sale, if arising before 1926. Having regard to the T.A., 1925, s. 14, and the L.P.A., 1925, s. 27 (2), a new trustee must be appointed before sale can be made.

Correspondence.

Parking Motors and the Law of Trespass.

Sir,—I have seen, I forget where, the case of *Ashby* v. *White*, 1703, cited as an authority for the proposition that damages will be awarded in an action for trespass to land without proof of injury against the defendant, the principles upon which such damages were awarded in that case of trespass to the person being assimilated to those governing the case of trespass to land, on the ground that as possession of land implies actual or constructive personal presence thereon the two causes of action may be taken as substantially identical.

Odgers is very definite upon the point—"Proof of the trespass without proof of any consequential damage entitles the plaintiff to at least nominal damages; such damages are given in order to vindicate the right which has been invaded." But he quotes no authority. On the other hand, he cites *Llandudno U.D.C.* v. *Woods*, 1899, 2 Ch. 705, and *Behrens* v. *Richards*, 1906, 93 L.T. 623, as authorities for an assertion that "an injunction will not be granted in cases in which there has been merely a technical trespass which has caused no damage," which, again, seems to controvert what your contributor writes in this week's SOLICITORS' JOURNAL.

Odgers' law seems, at any rate, sound in text-book law, and moreover, appeals to one's common sense also, since few civil offences would tend more readily or more directly to a breach of peace than trespass to land, and since trespassers cannot, as a rule, be "prosecuted" (*pace* the notice boards) it would seem to be a wise and beneficial dispensation of law which imposes an equivalent deterrent of damages. In the case which has given rise to this correspondence, the plaintiffs were made the victims of a clamorous attack in the popular press, which is, in itself, sufficient immediately to enlist one's sympathy on their side! I, for one, am glad to feel that such sympathy is justified in law as well.

Deal, H. S. B.
8th January.

Lead Paint (Protection against Poisoning) Act.

Sir,—In your "Current Topics" for 8th January you refer to this Act as possibly causing some increase of expense to householders. Whether this be so or not, it is worth pointing out that one of the reasons for Parliament's declining to adopt the draft Convention of the International Labour Conference of Geneva 1921 (which proposed the prohibition of the use of lead paints for the interiors of buildings) was that the investigations of a Departmental Committee (reporting in 1923) showed that the use of leadless paints would involve much greater expense. As this Departmental Committee also stated that lead poisoning among housepainters could be minimised by regulations such as are now prescribed, it may be supposed that we may long continue to use the familiar form in leases "To paint with——coats of good oil and white lead paint in a proper and workmanlike manner."

London. WHITE & LEONARD.
11th January.

The Poor Law Consolidation Bill.

Sir,—The Poor Law Consolidation Bill was introduced into the House of Lords on 17th November last. Instead of s. 54 of the Poor Law Amendment Act, 1834, which directs the overseers of every parish, under stringent penalties, to give relief in cases of sudden urgent necessity and medical orders in case of sudden and dangerous illness, the framers of the Bill have transferred the obligation to the relieving officer.

At first sight this seems to be simply a colossal blunder in a Consolidation Bill. There is, however, a possible explanation. By the Rating Act, 1925, the overseers are to be abolished; and the same Act (s. 62) empowers the King in

Council to transfer to rating authorities or such other local authorities or persons as seems expedient, "any powers and duties of the overseers"; and a draft Order "proposed to be made by the Minister of Health," proposes that the duties, etc., as to poor relief in sudden and urgent necessity and medical relief shall be transferred to the relieving officers.

But this draft Order could have no effect till sanctioned by the council; and no Order was made till long after 17th November, and I doubt whether any has been made yet. Is it possible that the Ministry of Health presumed that the Privy Council would make exactly such an Order as the Minister desired, and boldly inserted the alteration in the Bill? This would be such a colossal impertinence that I think there may be some other explanation which I have not fathomed. If so, I should be grateful, sir, if you or one of your correspondents would point it out.

If the Privy Council has not made the Order, I much hope that it will not do so. The relieving officer is not really "a local person" as regards villages five, six and eight miles away from him; and the alteration will be disastrous to the poor and arouse much feeling in the rural districts. Like Mr. Disraeli, they consider poor relief to the necessitous to be a right, which in law it undoubtedly is.

J. Theodore Dodd.

Points in Practice, Question 554.

Sir,—I feel some difficulty in following the amended answer to this question, vol. 70, p. 1214, in respect of the statement that the property was held by persons entitled in succession, and should be glad if you would clear it up. An undivided third, as in the case of heir and doweress, is unquestionably held in succession. In the present case the surviving daughters and the personal representative of the deceased daughter are entitled in equity to the fee simple of an undivided two-thirds, subject to a future trust for sale which they can veto. If they had collectively sold their interests before last year to a single purchaser, he would have been in the position of an equitable heir. I understand that you do not consider land subject to dower is settled land. I submit the mere division in shares—as if an heir had sold his interest to five tenants in common—would not make any difference in this respect. X.

[(1) During the life of the widow the entirety of the property was held by one group of persons entitled in undivided shares. On the widow's death the same entirety was to be held by trustees upon trust for sale. Clearly the property was, therefore, on 31st December, 1925, held by persons entitled in succession—trustees for sale were directed to hold in succession to a group of persons entitled in undivided shares.

(2) It is not agreed that the case of the heir and doweress is on the same footing at all. They do not hold in undivided shares. If they did, it is agreed there would be the suggested analogy.—Ed., *Sol.J.*]

Reviews.

A Varsity Career. By B. Dennis Jones, Cambridge. W. Heffer & Sons, Ltd. 1926. x and 89 pp. 3s. 6d.

An hour spent in reading this charmingly written booklet on a subject of absorbing interest means sixty minutes well spent. It contains an illuminating discourse on "The Need for a Career," much useful and candid advice on "The choice of a University and a College," and a general account of "Life at the Varsity." Those who have "gone down" will in reading it enjoy a dream of the great "might-have-beens" of their university career; and those who are still "up" will find in it sound advice; and those who are about "to go up" cannot do better than to take an early opportunity of becoming familiar with its contents.

Mixed Charities. By A. H. Withers. Being a Series of Articles reprinted from The Solicitors' Journal. London: The Solicitors' Law Stationery Society, Ltd. 22 pp. 2s.

The demand for copies of The Solicitors' Journal containing the series of articles written by Mr. Withers proved to be much greater than the supply of copies available, with the consequence that no alternative was left but to reprint the series as a booklet. With the articles have been reprinted a letter from another well-known authority on the Law relating to Charities, Mr. T. Bourchier-Chilcott, who raises the query whether or not as soon as the lands are purchased the exemption enjoyed by a charity wholly maintained by voluntary contributions is gone and if such charity ceases to be wholly maintained by voluntary contributions, land acquired before such cessation comes within the jurisdiction of the Charity Commissioners. Mr. Withers' discussion of the points raised in Mr. Chilcott's query.

Readers of The Solicitors' Journal are already familiar with the contents of the articles—which have been widely quoted and generally referred to as authoritative; but in view of the convenient form of, and the additional matter contained in, the reprint, it is well worth while to obtain a copy of the booklet.

Cases on Contract, with Chapters on Certain Special Contracts. By Michael E. Rowe. London: Stevens & Sons. 1927. xx and 392 pp. 15s. net.

The Law of Contract seems to be a favourite subject for collections of cases thereon. This new collection however differs from most of the others in that it can hardly be described as a collection of reports of cases. It is a case-book which contains a clear recital of the bare facts and the bare decisions, though sometimes with the addition of illuminating passages from judgments. A large number—in all between three and four hundred—of cases are given, and these are extremely well chosen to illustrate the fundamental principles of the law of contract. To those students who are not prepared to read the original law reports, the summaries contained in this collection will prove invaluable.

Books Received.

Carson's Real Property Statutes, comprising, among others, The Statutes relating to Prescription, Limitation of Actions, Married Women's Property, Administration of Estates, Wills, Judgments, Conveyancing and Law of Property, Settled Land, Trustees, Registration, with Notes of Decided Cases. Third edition. H. W. Law, M.A. (of the Inner Temple). 1927. Medium 8vo. pp. cxxviii and 1363 (with Index). Sweet & Maxwell, Chancery-lane, and Stevens & Sons, Ltd. £4 net.

Godefroi on The Law of Trusts and Trustees. Fifth edition. Harold G. Hanbury, B.C.L., M.A., Fellow of Lincoln College, Oxford (of the Inner Temple). Medium 8vo. pp. cxlviii and 827 (with Index). 1927. Stevens & Sons, Ltd., Chancery-lane. £2 10s. net.

The Yearly Supreme Court Practice, 1927, being the Judicature Acts and Rules and other Statutes and Orders relating to the Practice of the Supreme Court, with Practical Notes. Sir Willes Chitty, Bt., Bencher of the Inner Temple (late Senior Master of the Supreme Court of Judicature and King's Remembrancer); and H. C. Marks (of the Inner Temple). Assisted by F. C. Allaway, of the Chancery Division. In two volumes. Large crown 8vo. Vol. I, pp. ccccIxxiv, 1463, and (Index) 362. Vol. II, pp. 1501 to 2543 and (Index) 362. 1927. Butterworth & Co., Bell-yard. 40s. net. Thin edition 5s. net extra.

Digest of the Law of England, with reference to the Conflict of Laws. By the late A. V. Dicey, K.C., Hon. D.C.L. Fourth edition. A. Berriedale Keith, D.C.L., D.Litt.

(of the Inner Temple). Medium 8vo. pp. cxxiv and 1056 (with Index). 1927. Stevens & Sons Ltd., Chancery-lane, and Sweet & Maxwell Ltd., Chancery-lane. £2 12s. 6d. net.

Registration of Business Names Act, 1916, with Rules, Fees, Forms, Notes and Cases thereon. ROBERT CARTER (Solicitor). Third Edition. 1927. Demy 8vo, pp. vii and 44 (with Index). Waterlow & Sons, Ltd., London Wall. 2s. net.

The Law Quarterly Review. Vol. XLIII—No. 169. January, 1927. Stevens & Sons, Chancery-lane. 6s. net.

The Journal of The Divorce Law Reform Union. Vol. VII. No. 81. January, 1927. The Divorce Law Reform Union, 55, Chancery-lane, W.C.2. 2d. Quarterly.

The Reform of The Land Law. An Historical Retrospect, being a Public Lecture delivered to the Department of Legal Studies of the University of Birmingham, by Professor W. S. HOLDSWORTH, K.C., D.C.L., F.B.A., Vinerian Professor of English Law in the University of Oxford (reprinted from *The Law Quarterly Review*). 1926. Medium 8vo; 27 pp. 2s. net.

The Law Relating to the Construction, Sewering, Paving and Improvement of Streets under the Public Health Acts, 1875 to 1925 (*including the Private Street Works Act,* 1892). SYDNEY DAVEY, M.A., LL.B. (Barrister-at-Law). Demy 8vo; pp. xxx and 273. 1927. The Local Government Journal, Ltd., 7, Chichester House, Chancery-lane, W.C.2. 20s. net.

Annual Local Taxation Returns, England and Wales. 1924-25. Part I. Statement showing the rate moneys and other moneys expended and received during the financial year ended 31st March, 1925, by Boards of Guardians, the Managers of The Metropolitan Asylum District, and other Poor Law Authorities, and the amounts of the outstanding loan debts of those authorities at the end of that year, with certain relevant particulars. Royal 8vo; 76 pp. H.M. Stationery Office, 5s. net. W. P. H.

Obituary.

JUDGE SIR THOMAS GRANGER, J.P.

His Honour Sir Thomas Colpitts Granger, Kt., J.P., died on Thursday last, the 13st inst., at his residence, 25, Lower Belgrave-street, S.W.1, aged seventy-five.

Sir Thomas, who sat as County Court Judge at Greenwich, Woolwich and Southwark since 1911, was the third son of the late Mr. T. Colpitts Granger, Q.C., M.P. (who sat for Durham, and was Recorder of Hull). He was born on the 30th August, 1852, was educated privately, and was called to the Bar by the Inner Temple in 1874. He held the appointment of County Court Judge of Cornwall from 1891 to 1911, and was joint Chairman of the Cornwall Quarter Sessions until the year 1918. He married Lilian, the daughter of Mr. James Payn, the novelist, in 1886, but she died in 1910. In 1919 he married Ellen, the widow of Mr. Geoffrey Walker, of Northbrook Park, Countess Wear, Devon, who survives him.

Shortly after being called to the Bar he went to the North and North-Eastern Circuits, practising in the Durham Chancery Court, and for some time was Revising barrister for the North Division of the West Riding of Yorks.

Of a kind and sympathetic disposition, he frequently went out of his way to help poor families who came before him, and often successfully interceded between them and money-lenders or landlords, two classes of people who received very little sympathy at his hands. He was extremely keen on propriety and on the maintenance of the traditions of the profession. On one occasion, it is said, he fined a barrister for smoking within the precincts of his court, and a councillor was similarly punished for failing to remove his hat.

Sir Thomas was taken ill last week with a cold, which unfortunately developed into bronchitis, terminating fatally early on Thursday morning. He had a keen sense of humour, and was a painstaking and popular judge, whose loss will be widely felt. W. P. H.

Court of Appeal.

No. 1.

In re **Wait.**

16th, 17th, 18th and 19th November and 17th December, 1926.

BANKRUPTCY—CONTRACT FOR SALE OF GOODS—PART OF CARGO OF WHEAT ABOUT TO BE SHIPPED—PURCHASE-PRICE PAID BEFORE ARRIVAL—SUBSEQUENT BANKRUPTCY OF VENDOR—PURCHASER'S CLAIM TO SPECIFIC PERFORMANCE—GOODS NOT "SPECIFIC OR ASCERTAINED"—SALE OF GOODS ACT, 1893, 56 & 57 Vict. c. 71, ss. 52, 62.

A contract for sale of 500 tons of "western white" wheat, part of a cargo of 1,000 tons of similar wheat ex motor vessel "Challenger" having been entered into, the purchasers paid the purchase-money, £5,933, before the arrival of the vessel with the cargo. After the payment of the price, and before the arrival of the vessel, the vendor became bankrupt. The trustee retained the purchase-money and refused to deliver the wheat.

Held (Sargant, L.J., dissenting), that the sale was not one of "specific or ascertained" goods within s. 52 of the Sale of Goods Act, 1893, and therefore the purchasers could not insist on specific performance of the contract, but must be left to their common law remedy of damages for breach, and proof in bankruptcy for the same.

Holroyd v. Marshall, 10 H.L.C. 192, *discussed and distinguished.*

Appeal from a decision of Astbury and Lawrence, JJ., in bankruptcy on appeal from the Bristol County Court (reported 70 SOL. J., 1002; 1926, Ch. 962). The bankrupt, Wait (trading as Wait & James), a corn dealer, on 20th November purchased a cargo of wheat of 1,000 tons to arrive at Avonmouth by the motor ship "Challenger." On 20th November they sold 500 tons of "western white" wheat, part of this cargo, to Humphries & Bobbett, c.i.f. price payable on 6th February. On 5th February the sub-purchasers paid Wait a cheque for £5,933 for the wheat. On 24th February Wait became bankrupt, and ultimately Collins was appointed trustee in bankruptcy. On 28th February the "Challenger" arrived at Avonmouth with the 1,000 tons of wheat in bulk. On 3rd March the sub-purchasers moved before the county court judge for specific performance of the contract by delivery of the 500 tons of wheat. The judge refused specific performance, but held that the purchasers were entitled to a return of the £5,933. On appeal by both sides, the Divisional Court, Astbury and Laurence, JJ., held that Humphries & Bobbett were entitled to specific performance. The trustee appealed. *Cur. adv. vult.*

The Court, by a majority, allowed the appeal, Sargant, L.J., dissenting.

Lord HANWORTH, M.R., said the Divisional Court had held that the contract could be specifically performed because the goods were "specific" goods within s. 52 of the Sale of Goods Act, 1893, and that was the point mainly relied on by the respondents. It was argued that the wheat was "ascertained goods" within s. 52 as soon as it was shipped on board the "Challenger," because it could and ought to be ascertained upon arrival at Avonmouth, and that upon payment of the purchase price there was an equitable assignment of so much of the wheat as was necessary to satisfy the sub-purchasers' contract. The cases mainly relied on were *Holroyd* v. *Marshall*, 10 H.L.C. 191; *Hoare* v. *Dresser*, 7 H.L.C. 290; and *Howell* v. *Coupland*, L.R. 9, Q.B. 462. Section 52 of the Sale of

Goods Act, 1893, was a reproduction of s. 2 of the Mercantile Law Amendment Act, 1858, which empowered the courts to enforce contracts for the sale and delivery of specific goods. Looking at the history of the matter, he could not agree with Astbury, J., in saying that if the property passed specific performance would not be necessary. The problem to be solved came back to the question—were the 500 tons specific goods? They were never appropriated, and it was admitted that the legal property had not passed to the purchasers. There was no ascertainment or identification of the 500 tons out of the cargo of the "Challenger." The argument for the respondents largely depended on the validity of a *dictum* of Lord Westbury in *Holroyd* v. *Marshall*, *supra*, which, if premature at the date of its utterance, was now said to be good law by virtue of s. 52, and it was that passage which Astbury, J., mainly relied on. It was as follows (33 L.J. Ch. 193, at p. 196): "A contract for the sale of goods as, for example, of 500 chests of tea, was not a contract which would be specifically performed because it did not relate to any chests of tea in particular, but a contract to sell *the* 500 chests of a particular kind of tea which 'are now in my warehouse at Gloucester' was a contract relating to specific property, which would be specifically performed." Those words appeared to indicate specific goods in a specific place. The limitations of the jurisdiction of a Court of Equity to grant specific performance of a contract for sale of goods were recognised by the Master of the Rolls (Sir George Jessel) in *Fothergill* v. *Rowland*, L.R. 17 Eq. 132, and recognised and affirmed in *Re Clarke*, 36 Ch. D. 348, where Cotton, L.J., at p. 352, said: "The ordinary application of the doctrine of specific performance is to compel a vendor or purchaser to complete a contract for sale or purchase, a contract which is wholly executory. Where such a contract relates to goods, the court will not in general decree specific performance. Why is this? Because the court considers that in general damages are a sufficient remedy, and the proper remedy for the breach of a contract to sell or purchase goods, but that does not apply to a contract relating to land." Considering the facts of the present case in the light of the authorities, it was, in his lordship's opinion, impossible to hold that the 500 tons of wheat ex motor vessel "Challenger" were specific or ascertained goods, and thus specific performance would not be ordered as the remedy of the buyer under s. 52 of the code. The passage relied on in *Holroyd* v. *Marshall*, *supra*, if taken as reported in the *Law Journal*, did not conflict with that view. In *Tailby* v. *Official Receiver*, 13 App. Cas. 533, Lord Macnaghten, at p. 547, rejected the test apparently intended by Lord Westbury in *Holroyd* v. *Marshall*—"would a court of equity decree specific performance?"—as a measure of the rights of the parties, but he added the qualification that the rights must be completely defined as between the parties to the contract. Here there was no such identification of the "very thing," for the goods were not appropriated nor their individuality ascertained. Looking at the present case more particularly from the point of view of equitable assignment, the sub-purchasers could not fulfil the conditions necessary to give them such a right. For the reasons he had given, and upon the authori ies referred to, the appeal, in his judgment, must be allowed. The question for decision appeared to him to be governed by the mercantile law applicable to a not uncommon contract for the sale of goods.

ATKIN, L.J., delivered judgment in agreement with the Master of the Rolls.

SARGANT, L.J., who regretted that his dissent was complete and fundamental, held that an equitable assignment had been created before the bankruptcy of the 500 tons of wheat in favour of Humphries & Bobbett, preventing the wheat from vesting in the trustee except subject to such equitable right. There was an executory contract for the sale of a definite portion of a definite cargo shipped on a named vessel. Delivery of any other 500 tons of wheat would not satisfy the contract. It made no difference, he thought, to the position that only part and not the whole of the cargo was contracted to be sold. The point in the present case was covered by the judgment of Lord Cranworth in *Hoare* v. *Dresser*, 7 H.L.C. 291. He would not agree that such a decision would interfere with the ordinary way in which business was conducted, because it was not conducted dishonestly. He thought the trustee had no right to keep both the money and the wheat and leave the purchasers to prove in the bankruptcy for damages.

COUNSEL: *Jowitt*, K.C., and *Croom-Johnson*; *Luxmoore*, K.C., and *Wethered*.

SOLICITORS: *Peacock & Goddard*, for *Bevan, Hancock & Co.*, Bristol; *Hancock & Willis*, for *Barry & Harris*, Bristol.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

Cases Falling within Order III, Rule 6

AND

Points of Procedure arising under Order xiv.

(*Continued from p.* 38.)

So much for the plaintiff's affidavit. The defendant now comes upon the scene. He has had the plaintiff's affidavit, because that was delivered to him with the summons, and he has, therefore, presumably had time to make up his mind what he is going to do. One's experience is that defendants only produce their affidavits at the very last moment, on the threshold of the master's room. They are not bound to do it before. It may be better if they had time that they should produce their affidavit a little earlier. With regard to a defendant opposing an application for judgment under Order XIV, by Rule 3 of Order XIV it is provided that the defendant may show cause against such application by affidavit, or the judge may allow the defendant to be examined upon oath. Then the affidavit shall state whether the defence alleged goes to the whole or to part only, and if so, to what part of the plaintiff's claim. Then his affidavit should contain something more than a mere denial. A mere denial is wholly insufficient. He must go further than denying that he is indebted. He must set forth the facts fairly fully upon which he relies, as showing that he has a defence to the claim. It is quite insufficient to content himself with a mere denial. He must go further and he must set out the facts on which he relies as constituting a defence to the claim. If he has a counter-claim he should also set out in his affidavit the facts which justify his counter-claim against the plaintiff. I think I need only refer, to show you the nature of the defence which should be put forward by the defendant, if he is able to do it honestly, to the views expressed by the courts from time to time as to what is an adequate affidavit on the part of the defendant which is sufficient to justify the master in giving unconditional leave to defend, or, at all events, conditional leave to defend. No doubt you all know that if the defendant has any answer to the claim, he can, without resorting to an affidavit at all, take exception to the application by pointing out, either that the indorsement is irregular or that the plaintiff's affidavit is irregular. I am assuming for this purpose that the plaintiff's indorsement and his affidavit cannot be attacked. That being so, the defendant has to set forth in his affidavit such facts as show a defence. It has been stated in varying terms by the court that the defence outlined in the defendant's affidavit need not be by any means a good defence. These various expressions have been used—it should be a *bona fide* defence, not necessarily a good one or a right one; it should not, of course, be a sham; but if a fair case for defence is shown, or a fair right to defend is shown in the affidavit, or there is a fair probability of a defence, or facts are deposed to which might constitute a defence, or facts which raise a plausible dispute, that is sufficient. Those are all expressions which I have extracted from the cases used by the courts really to show that if the defendant in his affidavit, or the affidavit of somebody else who is able to swear to the facts, sets forth in the affidavit facts which disclose some plausible defence, the master has no option, although he may think it is a concocted story, but to give leave to defend. The master may have no doubt at all that there is no substance in it, but if the facts alleged in the affidavit do by themselves disclose that there is a plausible dispute between the parties, then the master has no alternative but to give leave to defend. To give you a few instances of cases where a defendant may be able to disclose good grounds of defence, I might mention those cases where he is able to show that an account ought to be taken. That arose in the case of *Lynde* v. *Waithman*, reported in 1895, 2 Q.B., at p. 180, where the court held there was a plausible dispute as to the amount claimed because

items had to be taken into account which made it impossible for the court to say that the amount of £X that had been claimed on the writ was really the amount due. Then another case where a defendant is entitled to leave to defend is where he is impugning a claim of a moneylender on the ground that the interest is excessive or unreasonable. In a case which was decided only the other day, of *Bennett* v. *Stubbs*, in the Court of Appeal, reported in this year's *Weekly Notes* at p. 6, it was held that where the only question raised was the question of excessive interest, it was not a proper case for Order XIV at all. While I am on the question of whether application in such a case was a proper one under Order XIV, I might mention that by virtue of the recent decisions of the Court of Appeal in *Rossiter* v. *Lapovitch* (?) and *Gill* v. *Luck*, it has been held, certainly in *Gill* v. *Luck*, that an application for judgment under Order XIV for recovery or possession of premises which come within the Rent (Restrictions) Act is not a proper one, because it does not come under Order XIV at all, the facts being that such a claim falls within the Rent (Restrictions) Act. Section 5 of the Rent (Restrictions) Act, as you know, compels the landlord to bring himself within one or other of the grounds set out in s. 5 (*a*) to 5 (*g*) of that Act; and also when he has succeeded in bringing himself within those grounds, it leaves it in the discretion of the court to say whether it is reasonable in the circumstances to make the order at all. In such cases it has been held that Order XIV is not a proper method to adopt, that a plaintiff should not attempt to get judgment under Order XIV where the Rent (Restrictions) Act applies. I mentioned that the defendant in his affidavit should set out the facts which show that he has a counter-claim. He may have no answer to the claim; he may admit it; but if he is able to show by his affidavit that he has a counter-claim for an amount which, at all events, equals the claim, the tendency of masters, and I think judges in chambers to-day, is to give unconditional leave to defend. The reason for that is the combined effect of Order XXI, Rule 10 and Rule 17, and Order XIX, Rule 3. Order XIX, Rule 3, gives a defendant the right to set off or set up by way of counter-claim against the claims of the plaintiff any right or claim, whether such set-off or counter-claim sounds in damages or not. Order XXI, Rule 17, provides that where in any action a set-off or counter-claim is established as a defence against the plaintiff's claim, the court may, if the balance is in favour of the defendant, give judgment for the defendant for such balance. The effect of those two orders seems to be to treat a counter-claim for the purposes of Order XIV as tantamount to a defence, although in fact there is no answer to the actual claim made by the plaintiff as indorsed on his writ, and the only chance that the defendant really has is of establishing a counter-claim which equals the amount of the claim.

I am reminded that time is getting short. There is only one other observation I have to make. When the master is considering Aye or No should the defendant be given leave to defend, and he decides very often that he should have unconditional leave to defend, the question arises as to directions as to trial. Where the case is a simple one, or where it is advisable that there should be a speedy trial, the master frequently orders that the case should be put into the short cause list, where it is likely that it will come on within the next few weeks. I do not advise of this. I do not think it is wise to put a case which is likely to take more than an hour into the short cause list, because my own experience is, and it is the experience of a good many others at the Bar, that sometimes the master, not realising the probable length of the case, not having had put before him all the facts which would enable him to know whether the case would last more than an hour or not, makes the order that the case should be tried in the short cause list, and then the plaintiff goes on triumphantly with his order only to discover that when the case is called on in the short cause list the judge refuses to try it because it is a case which, by reason of its length, is likely to take much longer than an hour. In those circumstances money is thrown away, costs are wasted, and the action is transferred to the non-jury list. Trouble and delay result, quite apart from the cost which has been incurred.

I have to thank you for the patience which you have shown in listening to what I am afraid has been a somewhat disjointed and immature lecture. It is not a branch with which I am very familiar. I am more used to dealing with one point at a time rather than dealing with a whole range of points which arise for consideration when you are considering the extent or Order III, Rule 6, and Order XIV. I hope I have indicated to you a few of the points which will enable you, when you have to consider a case which falls within these rules, to consider the points most likely to arise in matters of practice which fall for consideration under these orders.

(To be continued.)

Societies.

Plymouth Incorporated Law Society.

LORD MERRIVALE ON LAW AND PUBLIC LIFE.

The Incorporated Law Society of Plymouth, at their annual dinner at the Grand Hotel on Tuesday evening in last week, entertained as their principal guest Lord Merrivale, the President of the Probate, Divorce and Admiralty Division.

Mr. W. L. Munday, who presided, in proposing the toast of Lord Merrivale, gave an interesting sketch of his lordship's career from the time when, as Henry Edward Duke, he was appearing at the quarter sessions bar at Plymouth, down to the present day. Mr. Munday referred to his activities as member for Plymouth and then for Exeter, and later as Chief Secretary for Ireland during a period of exceptional difficulty and strain. But, he proceeded, the law was a jealous mistress and she kept her eye on him until he became Lord Justice of Appeal, from which he was preferred to the exalted position which he now held with such distinction.

Lord Merrivale, in replying, gave a few recollections of the Plymouth of his earlier days. He remembered, he said, the quarter sessions sitting in the old Guildhall in Whimple Street, when Mr. Saunders was the recorder. There was a distinguished legal profession there, too, men whose names figured with illustrious prominence on the walls of Plymouth, such as Whiteford, town clerk, and Alfred Rooker. Then, too, there was John Shelly, one of the finest and most upright men of his time, James Woollcombe, and others who had lent dignity to the life of that great port.

Mr. Munday's references to Ireland tempted Lord Merrivale to say a few words about conditions there to-day. He agreed that when he was Chief Secretary it might have been a period of strain, and he added that to-day we were in a better way there probably than we were fifty years ago. At any rate, there was a degree of mutual understanding which fifty years ago was impossible, and there was a realisation of facts which in past times did not exist. And if there was brought to the realisation of facts an honest endeavour between neighbours to discharge the common duty of humanity to each other as people and as communities then they would emerge a long way on the road to peace.

Lord Merrivale then referred to the influence of the profession of law, which, he said, had played an increasing part in the life of the country, progressively and conspicuously, during more than half a century. He was not sure whether any solicitor had been a Minister before the time of Lord Beaconsfield, but since then solicitors had played an increasingly prominent part. There was a solicitor Prime Minister not long ago, and there were several solicitor Ministers in the present Administration, discharging their duties with general approval—so far as any Minister of a political party ever commanded it. That was a cause for general satisfaction among solicitors.

In conclusion, Lord Merrivale alluded to the University for the South-West, which he commended to all solicitors. "It is the first thing since Athelstan established Saxon government east of the Tamar," he said; "which has shown a real promise of bringing the native populations of the West-Country in one unit where they belong."

Amongst the other guests were Mr. C. R. M. Clapp, president of the Devon and Exeter Society, and Mr. W. L. Platts, president of the Cornwall Law Society, who were toasted on the proposition of Mr. Albert W. Gard.

Incorporated Society of Auctioneers and Landed Property Agents.

The Third Annual Dinner of this Society will be held at The Savoy Hotel, on Friday, 11th February, and amongst the distinguished guests who have promised to attend are Viscount Knutsford, The Lord Chief Justice, The Solicitor-General, Mr. Justice Eve, Sir George Lewis, the President of The Law Society (Mr. A. H. Coley, LL.D.) The Right Hon, C. A. McCurdy, K.C., Mr. A. Fairfax Luxmoore, K.C., Sir Joseph Cook, Dr. J. A. Welcher. Mr. James Agate, Mr. Enoch Hill and Captain P. T. Eckersley. Mr. Samuel Wallrock (who has just been re-elected President of the Society) will be in the chair. Tickets may be obtained from the General Secretary at his offices, 26A, Finsbury Square, E.C.2.

The Solicitors' Law Stationery Society, Ltd.

Having regard to the fact that in August last a portion of the Reserve was capitalized, intending vendors or purchasers of the Society's shares are advised, as the Shares are not quoted on the Stock Exchange, to communicate with the Secretary of the Company before completing a contract.

Legal Notes and News.

Appointments.

Mr. L. M. FRIEND, who for the past four years has been Registrar at Bloomsbury County Court, has been appointed Registrar of Clerkenwell. He will be succeeded at Bloomsbury by Mr. B. P. BRIDGEMAN, late Registrar at Colchester.

Mr. HAROLD ARROWSMITH BROWN, Indian Civil Service, has been appointed one of the Judges of the High Court of Judicature at Rangoon, vice Mr. Edward Dyce Duckworth, Indian Civil Service, retired.

Wills and Bequests.

Mr. Arthur Bryan (60), of The Grove, Church-end, Finchley, N., and of Plowden-buildings, Temple, E.C., barrister and journalist, for some years hon. secretary of the Central Criminal Court Bar Mess, left estate of the gross value of £2,146.

Sir William Cobbett, of Woodlands, Fulshaw Park, Wilmslow, Cheshire, solicitor, twice Under-Sheriff for Staffordshire, who died on 26th November, aged eighty, left estate of the gross value of £56,300.

Mr. Theodore Hall Hall, of Onslow-gardens, S.W., and Lincoln's-inn, barrister-at-law, who died on 14th November, aged seventy-three, left estate of the gross value of £10,839. Among other gifts to his son he left:—

"The flowers and leaves which fell from Queen Victoria's coffin at Paddington Station and were picked up by me after the departure of the funeral train and were mounted by me, with their frame and the brass casket in which they are kept, and the two wooden statuettes of Arthur and Theodoric from Innsbruck which guard the Queen's relic."

Mr. Alan Lockhart Menzies (sixty-five), of Larchgrove, Balerno, Midlothian, Writer to the Signet, son of the late Sir William Menzies, left personal estate in Great Britain of the gross value of £21,720.

Mr. Thomas Edward Jeffes (eighty-two), of Quilter-road, Felixstowe, retired solicitor, for many years Consul in Brussels, left estate of the gross value of £6,268.

The Royal Commission on Awards to Inventors will hear on Monday, 17th inst., the claim of Mr. Norman A. Thompson in respect of improvements in flying boats (part heard).

A JUDICIAL DILEMMA.

French justice is faced with a very difficult problem in the case of Marcel Lavallée, a postman, who was tried two months ago on a charge of having forged a money order for 41,000f. Lavallée was acquitted by the Douai Assize Court, but he now finds himself faced with a demand by the postal authority for the payment of the 41,000f.

The money order in question was cashed at Wattrelos Post Office, in the Nord Department. Soon after she had paid it to a person supposed to be named Delvoye, however, the clerk examined it more closely, and found that it was really an order for only 1,000f., sent originally to Tourcoing and re-addressed from there to Wattrelos after the amount had been changed to 41,000f. It seemed that only a postal employé could have been able to make such a change, and inquiries led to the arrest of Lavallée, who was submitted to an examination rather like the "third degree." For hours under a searching cross-examination he protested his innocence, but at length, when so fatigued that a police officer described him as simply a wreck of a man, he signed a document in which he admitted forgery of the money order, and promised to repay the sum so obtained.

On interrogation by the examining magistrate Lavallée was able to account for the whole of the money found during a search of his home, and declared that he had signed the promise of repayment produced as his confession simply because he had been reduced by his "third degree" to a state of self-consciousness, in which he was prepared to sign anything. The jury at Douai acquitted him after only ten minutes' deliberation, but the Postal Department persists in its claim that he should pay the 41,000f. for which they hold his written promise. He and his defenders contend that such a claim amounts to a rejection of the judgment rendered by the assize court, since the payment of the note in question might be deemed an admission of guilt by a man whom a competent tribunal has declared innocent. The case has been taken up by the Postal Servants' Union.

SETTLEMENT OF EX-ENEMY DEBTS.

The sixth annual report of the Controller of the Clearing Office for Ex-Enemy Debts indicates that, apart from the numerous cases which have been referred to the Anglo-German Mixed Arbitral Tribunal, the task of clearing up ex-enemy debts is approaching an end.

The report covers the year ended 31st March last, and in that period in the German Administration British claims under Art. 296 to the number of 2,585 and of the declared value of £3,880,080 were finally disposed of, leaving 2,538 claims for £5,904,729 outstanding. During the same period 6,702 German claims for £4,234,496 were settled, leaving 6,842 claims for £7,381,153 outstanding. Claims to the number of 1,282 for compensation amounting to £3,820,238, in respect of property, rights, and interests subjected to exceptional war measures, have been finally disposed of, of which 1,095 claims to the amount of £1,577,791 were settled amicably by negotiations through the Clearing Offices.

MIXED ARBITRAL TRIBUNAL.

The cases awaiting trial by the Anglo-German Mixed Arbitral Tribunal are still very numerous, amounting at the beginning of October to 3,233, and fresh cases are still being referred to the Tribunals. Recently the greater number of fresh cases have been referred by German claimants, and of the outstanding cases, 2,059 are German. Many of the decisions given by the Tribunal involve principles of wide application, and the Controller is hopeful that in the ensuing year it will prove possible to settle a large number of outstanding cases by reference to these decisions. This, combined with the assistance given by the system of summary procedure, should, he considers, bring about an appreciable diminution of the arrears.

As regards the administration of Austrian property the report states that towards the end of 1925 the Austrian Clearing Office represented that the final balance of the account between the two offices would not be against Austria. These representations were confirmed, and in accordance with the agreement concluded in 1924 Austria therefore ceased to pay instalments. On 19th December, 1925, a balancing dividend of 7s. in the £ was paid, making, with previous dividends, a total dividend paid of 20s. in the £ upon the principal amount of all admitted claims, together with interest to the date of ratification of the Treaty.

"LICENTIOUS SPECTACLE" OF FRENCH MUSIC-HALL.

A court of justice at Dijon has just delivered a remarkable judgment in defence of public morals. The case in question concerned an action brought by an association of music-hall managers against three students of Dijon for defacing some posters of a performance at a local music-hall because they considered them indecent. The plaintiffs claimed 1,000f. damages.

The defence of the students was that the posters were an outrage on morality. The *juge de paix* by whom the case was first tried censured the defendants for taking the law into their own hands, but non-suited the plaintiffs on the ground that the display of the posters in question was an immoral and anti-social act. What is more, he ruled that costs should be shared by both parties. The music-hall association appealed, but the Dijon Court which heard the appeal has, in substance, upheld the first judgment. It has found not only that the plaintiffs had no case, but that in advertising "a licentious spectacle, contrary to public morals" and "in appealing to the lowest instincts," their member had committed a tort, or even a felony, and therefore could not appeal to justice for the reparation of any damages which he might have suffered in consequence of his act. The only alleviation in the judgment which the court accorded was to order the defendants to pay the total costs, instead of only half. The Paris Federation of Music Hall Lessees (Fédération du Spectacle de Paris) is taking the case up and intends to bring it before the Court of Cassation.

This is the first time that a case of this sort has been brought into court in France, and the final judgment will have great importance as a precedent.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 5%. Next London Stock Exchange Settlement, Thursday, 27th January, 1927.

	Middle Price 12th Jan.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 2½%	54⅞	4 11 6	—
War Loan 5% 1929-47	100⅛	4 19 0	4 19 0
War Loan 4½% 1925-45	95⅛	4 14 0	4 17 6
War Loan 4% (Tax free) 1929-42	101½	3 18 6	3 16 6
War Loan 3½% 1st March 1928	99⅜	3 10 6	4 14 6
Funding 4% Loan 1960-90	86⅝	4 12 6	4 14 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	92⅜	4 6 6	4 9 0
Conversion 4½% Loan 1940-44	95⅞	4 14 0	4 17 0
Conversion 3½% Loan 1961	75⅞	4 12 0	—
Local Loans 3% Stock 1921 or after	63⅜	4 14 0	—
Bank Stock	249	4 16 0	—
India 4½% 1950-55	92¼	4 17 6	5 0 6
India 3½%	71¼	4 18 0	—
India 3%	60⅛	5 0 0	—
Sudan 4½% 1939-73	91⅜	4 18 0	5 1 0
Sudan 4% 1974	84⅛	4 15 0	4 18 0
Transvaal Government 3% Guaranteed 1923-53 (Estimated life 19 years)	81½	3 14 0	4 12 0
Colonial Securities			
Canada 3% 1938	83½	3 11 6	4 18 0
Cape of Good Hope 4% 1916-36	92¼	4 7 0	5 1 0
Cape of Good Hope 3½% 1929-49	77⅛xd	4 11 0	5 2 6
Commonwealth of Australia 5% 1945-75	99	5 1 0	5 2 0
Gold Coast 4½% 1956	94⅛	4 15 6	4 17 6
Jamaica 4½% 1941-71	91⅜	4 18 0	5 0 0
Natal 4% 1937	92	4 7 0	4 19 0
New South Wales 4½% 1935-45	87½	5 3 0	5 11 6
New South Wales 5% 1945-65	95⅛	5 4 6	5 6 0
New Zealand 4½% 1945	96	4 14 0	4 18 0
New Zealand 4% 1929	97⅛	4 2 0	5 5 0
Queensland 5% 1940-60	96⅛	5 4 0	5 5 6
South Africa 5% 1945-75	100⅜	4 19 0	5 0 0
S. Australia 5% 1945-75	99⅛	5 0 6	5 2 0
Tasmania 5% 1932-42	98⅜	5 1 0	5 2 6
Victoria 5% 1945-75	98⅜	5 1 0	5 2 0
W. Australia 5% 1945-75	98⅛	5 1 6	5 2 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	62	4 17 0	—
Birmingham 5% 1946-56	102⅜	4 17 6	4 18 0
Cardiff 5% 1945-65	101	4 19 0	4 19 6
Croydon 3% 1940-60	67½	4 9 0	5 2 0
Hull 3½% 1925-55	75	4 13 0	5 1 0
Liverpool 3½% on or after 1942 at option of Corpn.	73½	4 15 6	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52½	4 15 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63½	4 15 0	—
Manchester 3% on or after 1941	61⅞	4 17 0	—
Metropolitan Water Board 3% 'A' 1963-2003	62½	4 16 0	4 17 6
Metropolitan Water Board 3% 'B' 1934-2003	65	4 12 6	4 15 6
Middlesex C. C. 3½% 1927-47	79⅛	4 8 0	4 19 6
Newcastle 3½% irredeemable	71	4 18 6	—
Nottingham 3% irredeemable	61½	4 17 6	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	101½	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 16 0	—
Gt. Western Rly. 5% Rent Charge	101½	4 18 6	—
Gt. Western Rly. 5% Preference	96½	5 3 6	—
L. North Eastern Rly. 4% Debenture	77	5 4 0	—
L. North Eastern Rly. 4% Guaranteed	76	5 5 6	—
L. North Eastern Rly. 4% 1st Preference	67½	5 18 6	—
L. Mid. & Scot. Rly. 4% Debenture	81½	4 18 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	80½	4 19 6	—
L. Mid. & Scot. Rly. 4% Preference	76½	5 5 0	—
Southern Railway 4% Debenture	82	4 17 6	—
Southern Railway 5% Guaranteed	100½	4 19 6	—
Southern Railway 5% Preference	97	5 3 0	—

LORD JUSTICE BANKES ON "OUR FREEDOM."

Parliament had always been engaged in interfering with the personal liberty of the subject, said Lord Justice Bankes, speaking at Shotton recently. Many people believed that Parliament was benevolent and not despotic, but in the opinion of others Parliament was very fussy. They heard about "grandmotherly legislators," and there was no doubt that Parliament had to some extent altered its methods. Speaking generally, he thought one might say, in reference to personal freedom, that it was safe except in so far as it might be curtailed and interfered with, not by the real wish of Parliament so much as by the operation of Government offices enforcing their opinions upon the community as a whole, forgetting the differences which existed between town and country and between one district and another.

TITHE ACT, 1925.

Landowners whose property is subject to ordinary tithe rent-charge or extraordinary tithe rent-charge are notified by the Governor of Queen Anne's Bounty that no payments will be due on 1st January, and that any collection of payments or dues on that date is illegal, as the result of the Tithe Act, 1925, by which all tithe rent-charge and extraordinary tithe rent-charge attached to an ecclesiastical benefice or corporation will vest in Queen Anne's Bounty on 31st March next. The dates of payment will in future be synchronised at 1st April and 1st October, and the charge will be collected next on 1st April. The charge however, does not apply to corn rents or to payments in lieu of tithe other than ordinary and extraordinary tithe rent-charge.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday Jan. 17	Mr. More	Mr. Hicks Beach	Mr. More	Mr. Jolly
Tuesday ... 18	Jolly	Bloxam	Jolly	More
Wednesday . 19	Ritchie	More	More	Jolly
Thursday .. 20	Synge	Jolly	Jolly	More
Friday 21	Hicks Beach	Ritchie	More	Jolly
Saturday ... 22	Bloxam	Synge	Jolly	More

Date.	Mr. Justice Astbury.	Mr. Justice Clauson.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday Jan. 17	Mr. Bloxam	Mr. Hicks Beach	Mr. Ritchie	Mr. Synge
Tuesday ... 18	Hicks Beach	Bloxam	Synge	Ritchie
Wednesday . 19	Bloxam	Hicks Beach	Ritchie	Synge
Thursday .. 20	Hicks Beach	Bloxam	Synge	Ritchie
Friday 21	Bloxam	Hicks Beach	Ritchie	Synge
Saturday ... 22	Hicks Beach	Bloxam	Synge	Ritchie

HILARY SITTINGS, 1927.

COURT OF APPEAL.

IN APPEAL COURT NO. I.

Tuesday, 11th Jan.—Exparte Applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and if necessary, Chancery Final Appeals.
Wednesday, 12th Jan.—Final Appeals from the Chancery Division will be taken and continued.
Monday, 24th Jan.—Final Appeals from the King's Bench Division (Revenue Paper) will be taken and continued.

IN APPEAL COURT NO. II.

Tuesday, 11th Jan.—Exparte Applications, Original Motions, Interlocutory Appeals, and if necessary, Final Appeals from the King's Bench Division.
Wednesday, 12th Jan.—Final Appeals from the King's Bench Division will be taken and continued until further notice.

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.
CHANCERY COURT I.
Mr. JUSTICE EVE.

Except when other Business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

CHANCERY COURT IV.
Mr. JUSTICE ROMER.

Mondays ....Chamber Summonses.
Tuesdays ....Companies (Winding up) Business and non-wit list.
Wednesdays Mots and non-wit list.
Thursdays ..Non-wit list.
Lancashire Business will be taken on Thursdays, 20th January, 3rd and 17th February and 3rd, 17th and 31st March.
Fridays ....Mots, sht caus, pets, fur cons and non-wit list.

CHANCERY COURT II.
Mr. JUSTICE ASTBURY.

Mondays ....Sitting in Chambers.
Tuesdays ....Mots and non-wit list.
Wednesdays Fur cons and non-wit list.
Thursdays ..Non-wit list.
Fridays ....Mots, sht caus, pets and non-wit list.

LORD CHANCELLOR'S COURT.
Mr. JUSTICE CLAUSON.

Except when other Business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.
Judgment Summonses in Bankruptcy will be taken on Mondays, the 24th January, the 14th February and the 7th and 28th March.
Motions in Bankruptcy will be taken on Mondays, the 17th January, the 7th and 28th February, the 21st March and the 4th April.
Divisional Courts in Bankruptcy will sit on Wednesdays, the 26th January, the 23rd February and the 23rd March.

CHANCERY COURT III.
Mr. JUSTICE RUSSELL.

Except when other Business is advertised in the Daily Cause List, Mr. Justice Russell will take Actions with Witnesses throughout the Sittings.

CHANCERY COURT V.
Mr. JUSTICE TOMLIN.

Until further announcement
Mondays ....Royal Commission on Awards to Inventors.
Tuesdays ....Chamber summonses, mots, sht caus, pets, procedure summonses and non-wit list.
Wednesdays Fur cons and non-wit list.
Thursdays ..Non-wit list.
Fridays ....Mots and non-wit list.

THE COURT OF APPEAL.

HILARY SITTINGS, 1927.

FROM THE CHANCERY DIVISION.

(Final List.)

1926.

Re Monk Giffen v Wedd & ors.
Re Jane Mather, dec Public Trustee v Mather & ors
The London & South American Investment Trust ld v The British Tobacco Co (Australia) ld
Re Companies (Winding Up) Re United General Commercial Insce Corpn ld Re Cos (C) Act, 1908
Re Companies (Winding Up) Re Nitrogen Fertilisers ld Re Cos (C) Act, 1908
Guy-Pell v Foster
Re Murray Public Trustee v Stirling
Re Oppenheimer Oppenheimer & anr v Public Trustee
Gifford & anr v Dent
Boyce v Morris Motors ld
Re Aschrote Clifton v Strauss

FROM THE PROBATE AND DIVORCE DIVISION.

(Final List.)

1926.

Divorce Stone, D. A. v Stone D. H.

FROM THE CHANCERY DIVISION.

(Interlocutory List.)

1926.

Re Companies Winding Up Re Chimbote (Peru) Coal & Harbour Syndicate ld Re Cos (C) Act, 1908
Re Companies Winding Up Re James Chorley ld Re Cos (C) Act, 1908

FROM THE CHANCERY DIVISION.

(In Bankruptcy.)

1926.

Re a Debtor (No. 82 of 1926) Expte The Debtor v The Official Receiver
Re Polack (No. 1,418 of 1921) Expte The Debtor v The Official Receiver
Re Polack (No. 1,759 of 1922) Expte The Debtor v The Official Receiver
Re Williams Expte The Trustee v B Williams, C R T Williams and P Needham

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

1926.

Oldham v Sheffield Corpn
Bent's Brewery Co ld v The Garrick (Liverpool) Picture House ld
Re The Railways Act, 1921, Sections 30, 31 & 58
Re Same
Kreditbank Cassel G.m.b.H. v Schenkers ld
Pinoli v Pinoli ld
Koskas v Standard Marine Insce Co ld
Re Arbitration Act, 1889 R & H Hall ld v W H Pim, Junior & Co ld
Horsley v Lockwood
Smith v Southampton Corpn
Fearnley v Rowlinson
Same v Same
Albert E Reed & Co ld v Page, Son & East ld
Same v Same
Pathe of France ld v Harris
Same v Mansbridge
Elkan v Bynoe
Bagnall v Henry Rooke, Sons & Co
Clay v The Anglo South American Bank ld
Leyton Urban District Council v Wilkinson
Re Agricultural Holdings Act, 1923 Richards v Pryse
Jebara v Ottoman Bank
Janes v Janes
The King v Grain
Marcantonalos v Sevastopulo
Davies v Woodward
Baldero v Rolph
Hart v Riversdale Mill Co ld
Donovan v Wright
Re Arbitration Act, 1889 Roberts v Anglo-Saxon Insce Assoc ld
Shaw & Shaw ld v Universal Metallic Packing Co ld
The Admiralty v Cox & King
Frost v Nolan
Kenyon & Scott
J Gordon Alison & Co ld v The Wallsend Slipway and Engineering Co ld
Evans v Musk
Findlay v Titley
Lloyd Royal Belge S.A. v Louis Dreyfus & Co s.s. "Indies"
Re An Arbitration between Norwood & ors v The London County Council
Adams v Liverpool Corpn
Wm France Fenwick & Co ld v The King
Re An Arbitration between The Ropner Shipping Co ld and Cleaves Western Valleys Anthracite Collieries ld

FROM THE KING'S BENCH DIVISION.

(Revenue Paper—Final List.)

1925.

Belfour v Mace

1926.

A J Hamilton & Co ld v Commrs of Inland Revenue
The Naval Colliery Co ld v Same
The Glamorgan Coal Co ld v Same
Davies v Abbott H M Inspector of Taxes
Levene v Commrs of Inland Revenue
Benjamin Smith & Sons v Commrs of Inland Revenue
Short Bros ld v Commrs of Inland Revenue
Birt, Potter & Hughes ld v Commrs of Inland Revenue
Lysaght v Commrs of Inland Revenue
The Birmingham District Power and Traction Co ld v Commrs of Inland Revenue
Rodgers v Carter (H.M. Inspector of Taxes)
Commrs of Inland Revenue v Stagg & Mantle ld
Commrs of Inland Revenue v Loders & Nucoline ld
Todd (H.M. Inspector of Taxes) v The Egyptian Delta Land & Investment Co ld
Commrs of Inland Revenue v The Mashonaland Ry Co ld
The Ormonde Investment Trust Co ld v Betts (H.M. Inspector of Taxes)

FROM THE KING'S BENCH DIVISION.

(Interlocutory List.)

Revenue
T Haythornthwaite & Sons ld v Kelly (Inspector of Taxes)
Wallace v The Surrey County Council
Bingo Gold Mines ld v Maxwell
Same v Sherburn

FROM THE ADMIRALTY DIVISION.

(Final List.)

With Nautical Assessors.

Canton—1925—Folio 183
Owners of s.s. Rhesus v Owners of Motor Ship Canton
British Earl—1926—Folio 265
Owners of Cargo ex s.s. Marie Therese v British Tanker Co ld
Poolmina—1925—Folio 339
Owners of Dumb Barge Percy & cargo v Owners of s.s. Poolmina

Without Nautical Assessors.

(Interlocutory List.)

Fagernes—1926—Folio 171
Owners of s.s. Cornish Coast v. Societa Nazionale di Navigazione pt hd

RE THE WORKMEN'S COMPENSATION ACTS.

(From County Courts.)

1926.

Bevan v Lancasters Steam Coal Collieries ld
Pullen v H J Enthoven & Son ld
Same v Same
Jones v Cory Bros & Co ld
Standen v Smith
Standing in the "Abated" Lis

FROM THE KING'S BENCH DIVISION.

(Final List.)

Ball v Barber (s.o. generally June 18)
(Revenue Paper—Final List).
mmrs of Inland Revenue v CoParsons (s.o. generally Nov 25 1925)

(Interlocutory List.)

S Baker & Co ld v Russian Transport & Insce Co (The London & Lancashire Insce Co ld, Garnishees) (pt hd) (s.o. generally Dec 14)
S Baker & Co ld v Russian Transport & Insce Co (pt hd) (s.o. generally Dec 14)
S Baker & Co ld v Russian Transport & Insce Co (The London & Lancashire Insce Co ld, Garnishees) (pt hd) (s.o. generally Dec 14)
re Workmen's Compensation Acts
Hughes v The Shrubbery Colliery Co ld (s.o. generally (liberty to apply) Dec 7)

N.B.—The above List contains Chancery, Palatine, and King's Bench Final and Interlocutory Appeals, &c., set down to December 23rd, 1926.

HIGH COURT OF JUSTICE.—CHANCERY DIVISION.

HILARY SITTINGS, 1927.

NOTICES RELATING TO THE CHANCERY CAUSE LIST.

Mr. Justice EVE.—Except when other business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

Mr. Justice ASTBURY will take his business as announced in the Hilary Sittings Paper.

Mr. Justice RUSSELL.—Actions with Witnesses will be heard throughout the Sittings.

Mr. Justice ROMER will take his business as announced in the Hilary Sittings Paper.

Liverpool and Manchester Business.—Mr. Justice ROMER will take Lancashire business on Thursdays, the 20th January, 3rd and 17th February and 3rd, 17th and 31st March.

Mr. Justice TOMLIN will take his business as announced in the Hilary Sittings Paper.

Mr. Justice CLAUSON.—Except when other business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

Judgment Summonses in Bankruptcy will be taken on Mondays, the 24th January, 14th February and 7th and 28th March.

Motions in Bankruptcy will be taken on Mondays, the 17th January, 7th and 28th February, 21st March and 4th April.

A Divisional Court in Bankruptcy will sit on Wednesdays, the 26th January, 23rd February and 23rd March.

Summonses before the Judge in Chambers.—Mr. Justice ASTBURY and Mr. Justice ROMER will sit in Court every Monday during the Sittings to hear Chamber Summonses. Mr. Justice TOMLIN will hear Chamber Summonses on Tuesdays.

Summonses adjourned into Court and Non-Witness Actions will be heard by Mr. Justice ASTBURY, Mr. Justice ROMER and Mr. Justice TOMLIN.

Motions, Petitions and Short Causes will be taken on the days stated in the Hilary Sittings Paper.

NOTICE WITH REFERENCE TO THE CHANCERY WITNESS LISTS.

During the Hilary Sittings the Judges will sit for the disposal of Witness Actions as follows:—

Mr. Justice EVE will take the Witness List for EVE and ROMER, JJ.

Mr. Justice RUSSELL will take the Witness List for RUSSELL and TOMLIN, JJ.

Mr. Justice CLAUSON will take the Witness List for ASTBURY and CLAUSON, JJ.

CHANCERY CAUSES FOR TRIAL OR HEARING.

Set down to 23rd December, 1926.

Before Mr. Justice EVE.

Judgment Reserved.

Petition.

Re Rousset's Patents Nos 189,639 and 189,973

For Mr. Justice CLAUSON.

Cause for Trial.

(With Witnesses.)

Waterlow & Sons ld v Rapkin and ors

Mr. Justice EVE's List.

Causes for Trial.

(With Witnesses.)

Attorney-Gen. v Woolcombers ld
Crosse & Blackwell Manufacturing Co ld v Mellor
Maidenhead Brick & Tile Co ld v Arundell
Hattersley v Newman
Wardle v Rennoldson
Forster v National Amalgamated Union of Shop Assistants, Warehousemen & Clerks
Blamey v Biscoe (s.o.)
Groedel v Administrator of Hungarian Property
Re Cos (C) Act, 1908 and re Nothard, Lowe & Wills
Wontner-Smith v Zielinski
Durham v Reid, Price & Co ld
Attorney-Gen v Barnes
Cox v Constant
Martin v Allery
Moore v Taylor
Westminster Bank ld v Jacobs
Cole v Alliance Box Co ld
Same v Same
Trustee of Dickinson (a Bankrupt) v Lord
Hood-Barrs v Frampton, Knight and Clayton
Lister v Byrne
Hardman v Sandford (s.o.)
Humphreys v Hebdon
The Builders Accident Insce ld v Holloway Bros (London) ld
Roberts v Hemmings
Bell v Craston
Leach v Outdoor Amusements ld
Barclay, Perkins & Co ld v Union Cold Storage Col ld
Franklin v Same
Williams v Mundy
Re Eustace Krog & Co ld Owston v The Company
McGillivray v Italia House ld
Kilpatrick v Brooks
Toogood v Drewitt
Cox v Wood & Lempriere and Hunter
The Photochrom Co ld v H & W Nelson ld
The Burlington Property Co ld v Meux's Brewery Co ld
James v Evans
Duce v Crew
Durston v Brentwood U.D.C.
Horlick v Scully
Gerdes v Slight
Keyser v Hemmings
W E Baxter ld v Verrall
Tecalemit ld v Ex-A-Gun ld
Same v Ewarts ld
The United States of America v Handley Page ld
De Brath v B Lipton ld
Nuttall v Hallett
Trew v Trew
Ellis v Martin
Re Bennett, dec Noonan v Loryman
Sorenson v Brunskill
B H T & Co ld v Hobbies ld
Curzon v Livermore
Miller-Bryant Pierce v Kado ld Re Trade Mark, No. 457,321 and re Trade Marks Acts, 1903 to 1919
Fitch & Son ld v Whyte Ridsdale and Co. ld
Banks v Hampstead Garden Suburb Trust ld
Goddard v Bishop's Stores
Moffat v Williams
J Smith & Son (Redditch) ld v J Simpson & Co
Allen v Lillington
Ashton v Harvey
Smarts (London) ld & re Cos (C) Act, 1908
Stirling v Holloway
Pink v Peddar
Pirbright Co ld v Peddie
Harris v Wood
Duke of Westminster v London County Council
Saffron Walden, Bishops Stortford and District Farmers' Assoc ld and re Cos (C) Act, 1908
British South African Insce Corpn ld (in liquidation) v Motor Union Insce Co ld
Mander v Ansteys ld Ansteys ld v Mander
Tecalemite ld v C C Wakefield and Co ld
The British United Shoe Machinery Co ld v Lambert, Howarth and Sons ld & ors
Pearson v Cawley
Dixon v Clark
Francis v Thames Valley Development Co ld
Buckwell v Petrides
The Amalgamated Soc of Woodcutting Machinists v Brook
Levinson v Shaw
Leslie & Co ld v May
Padley v Dowsett
Maloney v Bovril ld
Ruck v Barker
Re Trade Marks Acts, 1905 to 1919, re Appln No. B., 467,126 by F Smith, re Opposition thereto, No. 8,022, by Edward Sharp and Sons ld
Meynell v Smith
Gowen v Crisp
Re Inecto ld & re Cos (C) Act, 1908
Baker v Jeffs

Before Mr. Justice ASTBURY.

Retained Matters.

Causes for Trial.

(With Witnesses.)

Sames v Samestophone ld
Holliday v Holliday
Re Wharncliffe Woodmoor Colliery Co ld and Re Cos (C) Act, 1908
Henry v Gibson

Adjourned Summonses.

Re Jones Lloyds Bank ld v Bastit
Re Bridgewater Settlement Bridgewater v Bridgewater
Piper v Worthing Property Mart ld
Re Atchison Marriage Settlement Douglas v Langham (restored)
Re Aylesford Young v Finch-Knightley
Dew v Willis
Re W Davis Stone v Davis
Re Alefounder's Trusts Adnams v Alefounder
Re Waller's Trusts Adshead v Adshead
Re Burnham Burnham v Burnham
Re Richards Richards v Richards
Re Chartres Farman v Barrett
Re Scott Scott v Scott
Re Ouseley Lloyds Bank ld v Ouseley
Re Bird Twist v Eaton
Re Owen Williams v Davies
Public Trustee v Gill
Re Ellis Cosens v Reid
Re Hall Wragg v Gallimore
Re Marsden Marsden v Elder
Re Naylor Naylor v Corton
Re Cutchell Public Trustee v Sunn
Re Mason Gough v Dibdin
Re Dawson Hore v Andrews
Letheven v Challenor (short)
Re Measures Measures v Morse
Re Briggs Hannam v Briggs
Bradburne v Swiss Bank Corpn
Re Merry Del Val's Settlement Public Trustee v Zulueta
Re Riley Riley v Riley
Re West Todd v Davis

Before Mr. Justice RUSSELL.

Causes for Trial.

(With Witnesses).

Sutherland v Morden
Sutherland v British Dominion Land Settlement Corpn ld (s.o.) (to be mentioned)
Grey v Grey (pt hd) Re Earl of Stamford & Warrington Payne v Grey
Wilson v Pickard
Bott v Goddard
Attorney-Gen. v Hargreaves
Davies v Evans
Ffoulkes v Thompson
Prorace ld v Le Brasseur Surgical Manufacturing Co ld
Rendlesham v Boynton
Lee v Lifton
National Glass Co ld v International Bottle Co ld
Stewart v Errington & Martin ld
Beech v Stauffer
Simon v Millwall Engineering Co ld
Leach v Young
Vickery v Finch
Re Tate Meaker v Harris & Valentine
Re Marshall Marshall v Marshall
Edelsten v Merson
Bond v Walker
Jackson v Jackson
William Roberts & Co (Bristol) ld v Roberts
The Scott Paper Co v Drayton Paper Works ld
Fowler v Garrad
Caird v New Zealand Shipping Co ld
Same v Federal Steam Navigation Co ld
Hurley v Hearts of Oak Life & General Asnce Co ld
Turner v Atlas
Beare v James
Whitwell v Autocar Fire & Accident Insce Co
Minton Senhouse v Duncan
Re Cogswell & Harrison ld Harrison v The Company
Re Macdonald Moore v Lindsay
MacVie v Siddall
Waller v Morgan
Bargate & Co ld v Larkin
Re Tahourdin's Trusts Tahourdin v Tahourdin
Scrase's Brewery ld v The Southampton Transport Workers Social Club & Institute ld
East Kent Colliery Co ld v Thomas
Kent Silk Mills ld v Ferdinando
Cook v Deacon
Downs v Currall
Larkin v Bargate
Williams v Barton
Francis Adams ld v Vincent
Haymarket Capitol ld v Clavering
Clark v Trench
Intertype ld Re Patents & Designs Acts, 1907 & 1919
Russell v Williams
Priori v Rossi
Boorne v Wicker
Welles v Beecham
Davis v The Sussex Rubber Co ld
Re F J Davis Trade Mark, Nos B 451,002 Re Trade Marks Acts
Shaw v Davies
Re Oliver Theobald v Oliver
Richardson v Allsopp
Kent-Mitchell ld v Pearce
Re Edney Clifford v Edney
Re Percival Percival v Marcus
Impex Electrical ld v Norton Wireless Co ld
Jefferson v Dunning
The Ensbury Park Land Co ld v Watton
Tecalemit ld v Ewarts ld

Before Mr. Justice ROMER.

(Adjourned Summonses.)

Re Quintin Dick Cloncurry v Fenton
Re Richardson, Duck & Co ld Stewart v The Company
Re Buck & Punter's Contract & Re Law of Property Act, 1925
Re Meller Wing v Graves
Upton v Hussey-Freke
Re Crawford Orlebar v Scobell
Re Clarke Bond v Johnson
Re Page Swan v Swan
Re Brear Munton v Brear
Re Samson Public Trustee v Samson
Re Thomas, dec Davies v Thomas
Re Jackson, dec Langley v Shipley
Re Faber, dec London City & Midland Executor & Trustee Co ld v Dawson
Re Holy Malcolm v Holdsworth
Re Errington Gibbs v Lassam
Wood v Lushington
Re Jowitt Keeling v Jowitt
Re Carter Carter v Carter
Re Stone's Settlement Carter v Stone
Re Herries, dec Herries v Barwick
Re Leveston, dec Odell v Hodgins
Re Collier, dec Public Trustee v Selfe
Re Franks Marcus v Marcus
Green v March
Re Maison Clerin ld MacCormack v The Company
Re Dighton Oliver v Pullan

COMPANIES (WINDING UP) AND CHANCERY DIVISION.

Companies (Winding Up).

Petitions (to wind up).

Alliance Bank of Simla ld (petn of L W Warlow-Harry—ordered on May 6, 1924 to s.o. generally)
Robert Young's Construction Co ld (petn of London Asphalto Co ld—s.o. from Jan 20, 1925—liberty to apply to restore)
H A P P Tanning Co ld (petn of J B Maclean and ors—ordered on June 2, 1926 to s.o. generally)

Trinidad Land & Finance Co ld (petn of A H Clifford & anr, trading as Clifford & Clifford —ordered on June 19, 1926 to s.o. generally)
Aux Classes Laborieuses ld (petn of H S Reitlinger & ors—s.o. from Dec 7, 1926 to Jan 25, 1927)
Aux Classes Laborieuses ld (petn of Kleinwort, Sons and Co, a firm—s.o. from Dec 7, 1926 to Jan 25, 1927)
Intertype ld (petn of Mergenthaler Linotype Co—s.o. from Oct 13, 1926 to Jan 11, 1927)
A C Cars ld (petn of J F Browning —s.o. from Dec 14, 1926 to Jan 11, 1927)
Henslowe Bus Co ld (petn of Avon Rubber Co ld—s.o. from Dec 21, 1926 to Jan 18, 1927)
Pacific Petroleum ld (petn of W B Du Pre—s.o. from Dec 21, 1926 to Jan 11, 1927)
Rubie & Adams (1910) ld (petn of Stricklands ld)
Grant Richards ld (petn of G G Macfarlane)
British Worsted & Woollen Co ld (petn of G & G Kynock ld)
C Harris Trading Co ld (petn of John Alfred Katz, trading as Cohen Bros)
Films de France ld (petn of H L Charbonnel & anr)
Home Made Chocolate Co ld (petn of J T Higgins)
Essex Building Co ld (petn of M Wisepart)
Sale Heyworth & Co ld (petn of H H Davis)
Newton Trust ld (petn of F S Quilliam)
General Engineering Development Trust ld (petn of Walter Hill & Co ld)
John Cooper & Sons (Beehive) ld (petn of National Provincial Bank ld)
Madame Val Smith ld (petn of Sale & Norwood ld)

Chancery Petitions.

Horrockses, Crewdson & Co ld & reduced (to confirm reduction of capital—s.o. from Dec 21, 1926 to Jan 18, 1927)
Hull Oil Manufacturing Co ld & reduced (to confirm reduction of capital)
Port Talbot Trading & Transport ld & reduced (same)
Paul Ruinart (England) ld & reduced (same)
Marling & Evans ld & reduced (same)
New South Wales Land & Agency Co ld & reduced (same)
Whaleys (Bradford) ld & reduced (same)
Mount Elliott ld & reduced (same)
John Hartley & Sons ld & reduced (same)
Higgs Sons & Co ld & reduced (same)
Russian Corpn ld & reduced (same)
Contraflo Engineering Co ld & reduced (same)
R White & Sons ld & reduced (same)
Sherborne Ladies College Co ld (to confirm alteration of objects)
Barnett Samuel & Sons ld (to sanction Scheme of Arrangement)
Brooks Wharf & Bull Wharf ld (to substitute Memo & Articles of Association for Deed of Settlement)
Priestleys ld & reduced (to confirm reduction & reorganisation of capital)

Companies (Winding up).

Motions.

John Dawson & Co (Newcastle-on-Tyne) ld (s.o. generally by consent)
S Jacobs & Co ld (ordered on March 15, 1921 to s.o. generally)
H C Motor Co ld (ordered on July 5, 1921 to s.o. generally)
Corbridge Steamship Co ld (ordered on Dec 15, 1925 to s.o. generally)

Adjourned Summonses.

Companies (Winding up.)

Vanden Plas (England) ld (with witnesses—parties to apply to fix day for hearing—retained by Mr. Justice Astbury)
Fairbanks Gold Mining Co ld (ordered on July 26, 1921, to s.o. generally)
Blisland (Cornwall) China China Clay Co ld (ordered on Dec 16, 1921 to s.o. generally)
Atkey (London) ld. (ordered on Jan 22, 1924 to s.o. generally)
Joint Stock Trust & Finance Corpn ld
Same (to review taxation)
Direct Fish Supplies ld (appln of H E Warner) (ordered on Feb 3, 1925 to s.o. generally)
Aircraft Manufacturing Co ld (with witnesses) (s.o. from 21st Dec, 1926 to 22nd Feb, 1927)
Consolidated Produce Corpn ld (application of Sir E Bellingham) (with witnesses) (ordered on 7th Dec, 1926 to s.o. generally—retained by Mr. Justice Eve)
Same (application of H Williams) (with witnesses) (ordered on 7th Dec, 1926 to s.o. generally —retained by Mr. Justice Eve)
Same (application of I Hyams) (with witnesses) (ordered on 7th Dec, 1926 to s.o. generally —retained by Mr. Justice Eve)
Chimbote (Peru) Coal & Harbour Syndicate ld (ordered on 14th Dec, 1926 to s.o. generally)
James Burton & Son ld (s.o. from 16th Dec, 1926 to 3rd Feb, 1927)
L Fox ld
British & North European Bank ld
Provincial Underwriters Assoc ld
Alfred Powell & Sons ld
Crichton Thompson & Co. ld (with witnesses)
C Knight & Shaw ld

CHANCERY DIVISION.

French South African Development Co ld Partridge v French South African Development Co ld (ordered on 2nd April, 1914 to s.o. generally pending trial of action in King's Bench Division)
Economic Building Corpn ld (with witnesses) (ordered on 3rd July, 1923 to s.o. generally)
Economic Building Corpn ld (ordered on 3rd July, 1923 to s.o. generally)
Selected Gold Mines of Australia ld Nash v The Company fur con (ordered on 28th July, 1926 to s.o. generally—liberty to restore)

Before Mr. Justice TOMLIN.

Cause for Trial.

(With Witnesses.)

Graigola Merthyr Co ld v Swansea Corporation (pt hd)

Assigned Adjourned Summonses.

Re Peter's Patent & Re Patents and Designs Act (s.o. generally)
Re Schrage's Patent & Re Patents and Designs Acts (s.o. generally)
Re Johnston's Patent and Re Patents & Designs Acts
Re F Payne's Patent and Re Patents & Designs Acts
Re S R Parkes' Patent and Re Patents & Designs Acts
Re W G Fisk's Patent and Re Patents & Designs Acts
Re Killen's Patent & Re Patents and Designs Acts

Further Consideration.

Re Llewellyn Griffiths v Llewellyn

Adjourned Summonses.

Re Cunningham C Kinloch & Co ld v Cunningham
Re Same Same v Same
Re Dickinson Hughes v Ashforth
Re Stopford's Settlement Wilbraham v Stopford
Re Lindop, dec Stabb v Lindop
Re Hunt Hunt v Lumb
Re Squire Pain v Willmott
Re Hudson Hodgson v Hudson
Re Stocker Stocker v Stocker
Re W H Watts & Re Settled Land Act, 1925
Re Earl of Stamford & Warrington's Settlement Hall v Gray
Re Maillard Lonsdale v Maillard
Re Haigh Janes v Haigh
Re Treloar Public Trustee v Treloar
Re Petersen Charles Bradbury ld v Bulteel
Re Shaw Heatley v De Winton
Re Wakeman, dec and Re Settled Land Acts
Re Hill, dec Hill v Hill
Re Griffiths Griffiths v Griffiths
Re Magnetic Time Co's trade mark & Re Trade Marks Acts
Re Taylor Hulbert v Taylor
Re Wethered, dec Wethered v Wethered
Re Rev Shuldham, dec Hall v Debmold
Re Flannery, dec Flannery v Flannery
Re Warburton's Estates Warburton v Warburton
National Provincial Bank ld v Linnell
Re Cotterell Cotterell v Cotterell
Re Evans Park v Symons
Re Prime Thompson v Brown
Re Thomas Nelms v Thomas
Re Huilden Wilkinson v Huilden
Re Stenhouse Ross v Administrator-General of Bengal
Re Lister Lister v Appleton

Re Potts Lomas v Potts
Re Scarborough Electric Supply Co Trust Union ld v The Company
Re Tanner Cruttwell v Tanner
Re Milward Thomas v Medhurst
Re Wicksted Gurney v Mather
Re Walkington Royal Exchange Assce Corpn v Beckett
Re Petersen Charles Bradbury ld v Bulteel
Re Scarisbrick's Settlements Smalley v Scarisbrick
Re Eastwood Eastwood v Richards
Re Miles Miles v Miles
Re Lescher Wood v Fanshawe
Re Fidelity & Deposit Co of Marylands Trust The Company v Morgan
Re Oppenheimer Hodge v Attorney-Gen
Re Loveday Gale v Loveday
Re Wilder Drummond v Deane
Re Waters Hoare v Waters
Hutton v Secretary of State for War
Re James Bucker v Jesson
Re Todd Norton v Todd
Re Erswell Harvey v Erswell
Re Keogh Keogh v Keogh
Re Achillopoulos Johnson v Mavromichali
Re Owen Owen v Owen (short)
Re Beale Collier v Moulder
Re Trollope's Trusts Public Trustee v Trollope
National Provincial Bank ld v Abdela
Re Mullett Green v Mullett
Buoyant Upholstery Co ld v Marples
Re de Vahl Currey v de Vahl
Winchester v Emms
Re R Davies, dec Ormsby v Holland

Before Mr. Justice CLAUSON.
(Retained Matters.)
Adjourned Summons.

Re John Bell, dec Hodgson, Vernon & Co ld v Bell (pt hd)n,

Motion.

Re Schintz Schintz v Warr (pt hd)

Procedure Summons.

Kindell's Trustee v H & E Lea ld (pt hd)

Causes for Trial.
(With Witnesses.)

Samson Cordage Works v J Austin & Sons ld
Re Samson Cordage trade mark & re Trade Marks Acts, 1905 to 1919
Bohemian Union Bank v Administrator of Austrian Property
Shearman v Southend Corporation
Arthur Butler ld v Tilley
Bull v Minty
Baker v Rettie
Baker v Callaway
Erembert v Pollak
Eastern Counties Dairy Farmers ld v Smitten
Harris v Medawar
Bexon v Caunt
Trustee of G J Mathieson, a bankrupt v Barrup, Matthieson & Co. ld
Simpson v Chapple
Meaker v Veryard
Davy v Allen
Clark v Mayor, &c. of Newark
Leppard v Barrett
Foreman v Foreman
Lacteosote ld v Alberman
Same v Same
Allisnon v Smith
Clifford v Thornton
Godrich v Bass, Ratcliffe & Gretton ld
McCabe v Strong & Co (of Romsey) ld
Levison v Hart
Chanter v. Anderson
Brandon v Pearlberg
Re Schintz Schintz v Warr (not before 7th Feb)
The Torbay Hotels ld v Jenkins
Cassell v Starr
Davies v Walton
Attorney-Gen v. Ellis
Barclays Bank ld v Kempinsky
Collins v Southern Counties Electric Light and Power Supply ld
Trustee of J R B Curtis, a bankrupt v Miss Ware ld.
Coffin v Threipland
F. W. Young & Son v Digby
Re Morgan dec Bright v Morgan
Wood v Francombe
Steed v Betty
Wait's Trustee v Wait

APPEALS AND MOTIONS IN BANKRUPTCY.

Appeals from County Courts to be heard by a Divisional Court sitting in Bankruptcy, pending 31st December, 1926.

Re Levin Expte B Levin, The Debtor v A J Adams, The Trustee (s.o. generally)
Re Wait Expte The Trustee v Frank Shearn & Co ld
Re a Debtor (No. 52 of 1926) Expte The Debtor v The Petitioning Creditor & The Official Receiver
Re a Debtor (No. 15 of 1926) Expte The Debtor v The Petitioning Creditor & The Official Receiver
Re a Debtor (No 28 of 1926) Expte The Debtor v The Petitioning Creditor & The Official Receiver
Re Ellwood Expte The River Dee Drainage Board v Hooson

Motions in Bankruptcy for hearing before the Judge, pending 31st December, 1926.

ReDouglas Expte H Holmes, The Trustee v R C Bartlett (s.o. generally)
Re Williams Expte R F Nelson v J F Burtenshaw, The Trustee (s.o. generally)
Re Austin-Smith Expte G W Thomas v L R Dicksee, The Trustee
Re Leite Expte Visconde dos Olivaes v Sir W B Peat, the Trustee
Re Enever Expte H George v The Official Receiver (pt hd)
Re Apfel Expte H J de C Moore, The Trustee v I L Booth
Re Austin-Smith Expte L R Dicksee v W C Hobbs
Re Shaer Expte A E Quaife, The Trustee v Goldstein
Re Fairbrother Expte K M Ball, The Trustee v Fairbrother ld
Re Smulevitch Expte A C Heyward, The Trustee v G Stein
Re Same Expte Same v B Smulevitch ld
Re Duke & Slater Expte Board of Trade v The Trustee
Re Frush Expte F S Salaman, The Trustee v Maison Louise (Coiffeur) ld & Mr Katz
Re Muscovitz Expte R E Smith, The Trustee v Muscovitz ld
Re Wilmot Expte W H Cork, The Trustee v. Kirby
Re Wheeler Expte New Princes (1924) ld, Piccadilly v F W Davis, The Trustee

KING'S BENCH DIVISION.

HILARY SITTINGS, 1927.

CROWN PAPER.

For Argument.

The King v Roberts
The King v Minister of Transport
The King & Minister of Health
Bowker v Premier Drug Co ld
The King v Postmaster-General
Hay v Burgess
Burrows v Rapson
The King v Sizer & ors
Dymock v Charles Walker & Co ld
In re Emily Dalton
May v Beattie
The King v The Minister of Transport
The King v Same
Crack v Holt
Same v Same
Radcliffe v Buckwell

CIVIL PAPER.

For Hearing.

Winter v Green (Stratford-on-Avon County Court)
Wilkinson v Smith (Rochdale County Court)
Watney, Combe, Reid & Co ld v Lamb (Brentford County Court)
Mineral Transport Co. v Barnett & Co
London Stationery Co ld v Forbes & anr (Mayor's and City of London Court)
Lawrence v Hayes (Bishop's Stortford County Court)
Hamilton v Wolfe
Kreitman v Vidofsky (Whitechapel County Court)
Deacon v Ransley (Ilford County Court)
The Ipswich Gas Light Co v Arnold (Ipswich County Court)
General Timber Supplies ld v London & Northern Trading Co ld
Corby v Blanshard & Wife (Brentford County Court)
Lidbetter v Hall
C Scammell & Nephew ld v Tsipis (Peacock, Applicant) (Mayor's & City of London Court)
Weinreb v Universal Sewing Cotton Co (Shoreditch County Court)
Knight & Co v Best & Barnes (West London County Court)
Lewis v Vines (West London County Court)
Preece & Co ld v Weston & anr (Kidderminster County Court)
Thomas v Evans (Newcastle-in-Emlyn County Court)
Smart Bros ld v Morris & anr (Brentford County Court)
Cohen v Gold (Shoreditch County Court)
Raymond v Corner (Marylebone County Court)
Venmore v Petroleum Options ld (Llangefni County Court)
Cowan v Norton (Westminster County Court)
Dawkins v Springer (Marylebone County Court)
Rogers v Jacobson
Morrow v L M & S Ry Co (Liverpool County Court)
Welsh v Pound (Windsor County Court)
Bennison & anr v Karno (B Alexander & New Princes (1924) ld Clmts)
G W Potts ld v Macpherson, Train & Co
Lowe v Carr (Shrewsbury County Court)
Fullwood v Hurley (Leighton Buzzard County Court)
Karno v Barty
Howell v Horsfield & ors (Westminster County Court)
Hyams v Paragon Insce Co (Clerkenwell County Court)
Wooley v Gleeson & Powell (Portsmouth County Court)
Elliott v H V Holloway & Co ld (Sheffield County Court)
N V Handel Maatschappij v Leo Peltenburg Aronson
Jones v Reynolds (Brentford County Court)
Hawarth v Thompson & ors (Wigan County Court)
Dover & Sonabend ld (Dover & Sonabend, Pltffs) v Wolfe (Liverpool County Court)
Sims v Kent (Reading County Court)
David Allen & Sons ld v Howlett (Westminster County Court)
Hunt v Bishop, Badcock & Co ld
Stevens v Same
The Co-op London Cabmen's Assoc ld v John Egan & Son (Southwark County Court)
Boret v Howitt (Wandsworth County Court)
Bulman v Burgess (Rochester County Court)
Swadlincote U D C v Wright (Burton-on-Trent County Court)
Thimbleby v Beard (Reading County Court)

SPECIAL PAPER.

Joseph Rank ld v Owners of s.s. Oceana
Lloyd & Co v Tuscher & Partners ld
Harper & anr v Associated Newspapers ld
Mayor, &c. of Ryde v Carter
Aronson v Meologa Holzindustrie A.G.
Dymock & Co ld v C Wilk Svenssons Travaruaktiebolag

REVENUE PAPER.

English Information.

Attorney-Gen and Claud Effie Bergin
Attorney-Gen and The London & North Eastern Ry Co & ors
Attorney-Gen and J A King & Co
Attorney-Gen and Henry Preuss Arnholz & ors

CASES STATED.

The Charterland & General Exploration & Finance Co ld and The Commrs of Inland Revenue
Sir R Ropner & Co ld (on behalf of the Owners of the Steamship "Maltby") and H M Slatter (H.M. Inspector of Taxes)
The Devon Mutual Steamship Insce Assoc and F W Ogg (H.M. Inspector of Taxes) pt hd
Herman David, Junr and Louis David and W S Ostler (H.M. Inspector of Taxes)
The Commrs of Inland Revenue and The Darlington Wire Mills ld
R P Houston & Co and The Commrs of Inland Revenue
J F Grainger (H.M. Inspector of Taxes) and Miss W Singer
H J Huxham (H.M. Inspector of Taxes) and J T Johnson pt hd
The Commrs of Inland Revenue and The Bridge Colour Co ld pt hd
G D Smith and F E Shaw (H.M. Inspector of Taxes)
The Earl of Westmoreland and The Commrs of Inland Revenue
F B Goddard (H.M. Inspector of Taxes) and A Ducat pt hd
E R Pearn and F M Miller (H.M. Inspector of Taxes)
T Haythornthwaite & Sons ld and T Kelly (H.M. Inspector of Taxes)
The Cardiff & Channel Mills ld and The Commrs of Inland Revenue
The English Dairies ld and W S Phillips (H.M. Inspector of Taxes)
The English Dairies ld and The Commrs of Inland Revenue (E P D)
The English Dairies ld and The Commrs of Inland Revenue (Corpn profits)
G W Selby Lowndes and The Commrs of Inland Revenue
Arthur Lawrence Williams and Francis Edwards Sanders (H.M. Inspector of Taxes)
J H Jenner (H.M. Inspector of Taxes) and J A R Cairns
William Henry Thompson and E H Bruce (H.M. Inspector of Taxes)

DEATH DUTIES—SHOWING CAUSE.

In the Matter of Arthur George Earl of Wilton, dec
In the Matter of John William Atkinson, dec
In the Matter of George Eli North, dec
In the Matter of Annie Sharpe, dec
In the Matter of George Bone, dec
In the Matter of Clara Reeve, dec and A H Wickenden, dec

PETITION UNDER THE FINANCE (1909-10) ACT, 1910.

J. Lyons & Co ld and The Commrs of Inland Revenue (In re "The Corner House Restaurant," Rupert Street, W)

PETITION UNDER THE FINANCE ACT, 1894.

In re Samuel Thornley, deceased

PETITION UNDER THE LICENSING (CONSOLIDATION) ACT, 1910.

Archibald Arrol & Sons ld and The Commrs of Inland Revenue